

SETTLEMENT AGREEMENT AND MUTUAL GENERAL RELEASE

This Settlement Agreement and Mutual General Release ("Agreement") is entered into by and between BOARD OF DIRECTORS FOR TOWNHOMES OF CEDAR CROSSING II ASSOCIATION, an Illinois not-for-profit corporation ("THA"), and CEDAR CROSSING II MASTER HOMEOWNERS' ASSOCIATION, an Illinois not-for-profit corporation ("MHA") (collectively, the "Parties").

WHEREAS, THA is an Illinois not-for-profit corporation responsible for the administration, maintenance and common enjoyment of certain property located in Lake Villa, Lake County, Illinois pursuant to that certain Declaration of Covenants, Conditions, Restrictions and Easements for the Townhomes of Cedar Crossing II Association ("THA Declaration") and By-Laws of the Declaration of Covenants, Conditions, Restrictions and Easements for the Townhomes of Cedar Crossing II Association ("THA By-Laws"), recorded with the Office of the Recorder of Deeds of Lake County, Illinois on September 16, 1999;

WHEREAS, pursuant to Article V of THA's By-Laws, THA's Board of Directors has the power and duty to administer the affairs of THA and THA's property.

WHEREAS, MHA is an Illinois not-for-profit corporation responsible for the administration, maintenance and common enjoyment of certain property located in Lake Villa, Lake County, Illinois pursuant to that certain Master Declaration of Covenants, Conditions, Restrictions and Easements for Cedar Crossing II ("MHA Declaration") recorded with the Office of the Recorder of Deeds of Lake County, Illinois on January 14, 1998.

WHEREAS, on July 19, 2017, MHA recorded with the Office of the Recorder of Deeds of Lake County, Illinois an Amended & Restated Declaration of Covenants, Conditions, Restrictions and Easements for Cedar Crossing II ("MHA Amended Declaration").

WHEREAS, MHA's Declaration contemplated the development of residential lots, together with certain common areas which will require uniformity and continuing care and maintenance for the privacy, benefit and enjoyment of all persons owning the property, which includes the real estate now consisting of residential townhomes. THA's property consists of residential townhomes within MHA's property.

WHEREAS, pursuant to THA's Declaration, each owner shall have a membership interest in MHA and all of the covenants, conditions, restrictions, and easements in MHA's Declaration are incorporated by reference and made a part of THA's Declaration.

WHEREAS, pursuant to Section 1.11 of MHA's Amended Declaration, the townhomes within THA's property are defined as "Lots" within MHA's property.

WHEREAS, pursuant to Section 1.15 of MHA's Amended Declaration, each owner of a townhome within THA's property is considered an "Owner" or "Unit Owner" of a "Lot."

WHEREAS, pursuant to Section 2.01 of MHA's Amended Declaration, "every person or entity who is a record owner of a fee or undivided fee interest in any Lot shall automatically be a member of the Association." Therefore, and consistent with THA's Declaration, all townhome owners are members of MHA.

WHEREAS, all townhome owners within THA are required to pay annual assessments to MHA.

WHEREAS, on April 22, 2022, THA filed a complaint in the Circuit Court of the Nineteenth Judicial Circuit, Lake County, Illinois, Case No. 22 CH 114, against MHA for specific performance and other relief as it pertains to the maintenance of various portions of MHA's property for which THA has an interest (the "Litigation");

WHEREAS, on August 22, 2022, MHA filed its answer in the Litigation to THA's complaint denying any wrongdoing and liability to THA;

WHEREAS, without any admission as to fault, liability, or wrongdoing or as to the validity of any other Party's positions, the Parties desire to avoid the further expense and uncertainties attendant with the Litigation and to settle, compromise and satisfy fully and completely any and all claims, demands, liabilities and disputes between them, of every kind which now exist, whether known or unknown, fixed, or contingent, directly, or indirectly arising out of or in any way relating to the Litigation; and

NOW, THEREFORE, in consideration of these premises and the mutual obligations and promises contained herein, the adequacy of which are hereby acknowledged, the Parties agree as follows:

1. Within 7 days of the full execution of this Agreement, MHA agrees to pay THA the sum of \$5,498.92 (the "Settlement Payment"). THA shall use said funds to retain a vendor of THA's choosing to perform services pertaining to the cleaning of various side beds which abut THA's property. Said services may include but may not be limited to the following: cleaning up dead weeds and dead bushes, pruning of shrubs, and removal of dead trees. THA shall be permitted to have its vendor begin performing said services immediately upon receipt of said payment from MHA. Said Settlement Payment shall be made payable to THA and mailed to THA's attorney: Brian S. Feldman, Wiczor Sheldon & Jacobs, LLC, 500 Skokie Blvd., #325, Northbrook, IL 60062

2. In addition, upon the full execution of this Agreement, THA and MHA agree to be bound to the following as it pertains to the care, maintenance, and repair of various portions of the property belonging to THA and MHA:

- a. Monuments on Park Ave: THA shall be responsible for the care and maintenance of the front entrance beds and monuments. MHA shall be responsible for the care and maintenance of any and all electrical needs pertaining to the functionality of the lights on the monuments. THA shall be permitted to utilize a vendor of its choosing to perform said care and maintenance. THA shall have sole and exclusive discretion in how the beds are cared for and maintained. MHA agrees and understands that this includes any portions of the beds which are part of MHA's property.
- b. Landscape beds appurtenant to the townhome buildings: THA shall be responsible to maintain, repair, and replace the landscape beds that directly abut the townhome buildings; which includes but is not limited to, all trees and shrubs located within said landscape beds. THA shall be permitted to utilize a vendor of its choosing to perform said maintenance, repair, and/or replacement. THA shall have sole and exclusive discretion in how the beds are cared for and maintained. MHA agrees and understands that this includes any portions of the beds which are part of MHA's property.

- c. **Trees and shrubbery within the MHA common area and buffer zone which are surrounded on all sides by MHA grass:** MHA shall maintain, repair, and replace all small beds and plantings to the same standards as the rest of MHA commons. In addition, MHA agrees that THA is permitted, without the prior consent from MHA, and in THA's sole and exclusive discretion, to maintain said areas referenced in this paragraph (c) to a higher degree if THA so desires and at THA's sole expense.
- d. **The grass area owned by Buschman behind buildings 303 and 304:** MHA agrees to continue to make one mower pass behind the plantings done on the property line to preserve the aesthetics of the common areas, until such time as Buschman or any subsequent owner of the property take over the mowing of the grass in said area.
- e. **Grass cutting:** MHA shall be responsible to mow all of the grass located on MHA property. In addition, MHA agrees to mow all of the grass, within one mower width, of all patios and/or decks belonging to THA. THA agrees to mow the remaining area (one mower width) of grass which abut any patios and/or decks belonging to THA. In addition, MHA agrees to provide fertilization maintenance to all areas of grass on MHA property and all areas of grass which abut any patios and/or decks belonging to THA at the same rate as the rest of the common areas which is three (3) times per year.
- f. **The MHA Commons:** MHA shall provide for the care and maintenance of all MHA common areas, which shall include weekly grass cuttings with other standard services such as three (3) turf treatments per year (weather and turf conditions permitting); Spring clean-up; and Fall clean-up. Furthermore, MHA agrees that those MHA common areas located in close proximity to the townhomes may be maintained to a higher degree by THA in THA's sole and exclusive discretion and at THA's sole expense.

3. Within 7 days of receipt of the Settlement Payment, THA agrees to dismiss the Litigation against MHA with prejudice. All parties to bear their own costs and fees in the Litigation.

4. **THA Release:** In consideration of the Settlement Payment and MHA's agreement to be bound by the provisions in Paragraph 2 above as it pertains to the care, maintenance, and repair of various portions of the property belonging to THA and MHA, THA hereby releases, relinquishes, and gives up (and agrees not to directly or indirectly file, retain any recovery for, or pursue) any and all claims, suits, actions, controversies, demands, and/or causes of action whatsoever, of every kind, nature, or description, whether in law or in equity, known or unknown, relating in any way to those claims that THA brought against MHA in the Litigation, and against any and all of MHA's current and former agents, attorneys, Board members, legal representatives, administrators, successors, assigns and insurance carriers, including American Family Insurance (collectively, the "MHA Released Parties") relating in any way to those claims that THA brought against MHA in the Litigation. This is a full and general release by THA in favor of the MHA Released Parties with respect to the matters described above, including but not limited to claims for, and recovery of, all damages, costs, losses, attorneys' fees, litigation expenses, and demands of whatever character now known or hereinafter arising out of or in any way related to the Litigation and the allegations therein, (the "THA Released Claims"). This release extends to and includes any claims for civil damages (tort or contract), exemplary or punitive damages, and direct or derivative claims, for any monetary recovery or injunctive relief. THA understands and agrees that this Agreement fully and finally releases and forever resolves all claims against the MHA Released Parties, including claims that may be unknown, unanticipated, and/or unsuspected which relate in any way to those claims that THA brought against MHA in the Litigation. THA expressly

waives any right to assert hereafter that any claims related to the Litigation were excluded from this Agreement through ignorance, oversight, error, or otherwise. THA agrees that this paragraph constitutes a waiver of any statutory provision, right or benefit of any state or territory of the United States or any jurisdiction, and any principle of common law at law or in equity that prohibits the waiver of unknown claims. This release does not pertain to any future claim(s) which may arise which are unrelated to the Litigation. In addition, this release does not bar THA from bringing an action against MHA to enforce the terms of this Agreement.

5. **MHA Release:** In consideration of the dismissal of the Litigation and THA's agreement to be bound by the provisions in Paragraph 2 above as it pertains to the care, maintenance, and repair of various portions of the property belonging to THA and MHA, MHA hereby releases, relinquishes, and gives up (and agrees not to directly or indirectly file, retain any recovery for, or pursue) any and all claims, suits, actions, controversies, demands, and/or causes of action whatsoever, of every kind, nature, or description, whether in law or in equity, known or unknown, relating to any claims that MHA has against THA related to the Litigation, and against any and all of THA's current and former agents, attorneys, Board members, legal representatives, administrators, successors, and assigns (collectively, the "THA Released Parties") related to the Litigation. This is a full and general release by MHA in favor of the THA Released Parties with respect to the matters described above, including but not limited to claims for, and recovery of, all damages, costs, losses, attorneys' fees, litigation expenses, and demands of whatever character now known or hereinafter arising out of or in any way related to the Litigation and the allegations therein, (the "MHA Released Claims"). This release extends to and includes any claims for civil damages (tort or contract), exemplary or punitive damages, and direct or derivative claims, for any monetary recovery or injunctive relief. MHA understands and agrees that this Agreement fully and finally releases and forever resolves all claims against the THA Released Parties, including claims that may be unknown, unanticipated, and/or unsuspected which relate in any way to the Litigation. MHA expressly waives any right to assert hereafter that any claims related to the Litigation were excluded from this Agreement through ignorance, oversight, error, or otherwise. MHA agrees that this paragraph constitutes a waiver of any statutory provision, right or benefit of any state or territory of the United States or any jurisdiction, and any principle of common law at law or in equity that prohibits the waiver of unknown claims. . This release does not pertain to any future claim(s) which may arise which are unrelated to the Litigation. In addition, this release does not bar MHA from bringing an action against THA to enforce the terms of this Agreement.

6. The Parties warrant, represent and covenant to each other that:

- a. This Agreement has been validly executed and delivered and constitutes a valid and binding obligation enforceable against all Parties in accordance with the terms set forth herein;
- b. This Agreement constitutes the full and entire understanding and agreement among the Parties with regard to the subject hereof and supersedes any prior negotiations, representations, or agreements, written or oral, with respect to such subject matter (none of which prior matters shall be binding upon the Parties);
- c. They have not relied on any representation by any party other than those set forth in this Agreement;
- d. They have carefully read this Agreement and fully understand all of its terms, covenants, conditions, provisions, and obligations, and believe that this

Agreement is a reasonable resolution of the claims among the Parties and voluntarily signs this Agreement with intent to be bound by the terms set forth herein;

- e. They have not assigned or transferred any right or claim or interest in any right or claim that is the subject of the releases in this Agreement; and

7. It is understood and agreed that this Agreement is entered into by the Parties, and the aforesaid consideration is given and received, for the purpose of compromising disputed claims, and shall not be construed to constitute an admission of liability by either Party.

8. This Agreement may be signed by the Parties in multiple counterparts, each of which taken collectively shall constitute the original, fully executed Agreement and shall be binding upon the Party executing the same. An executed facsimile, PDF or TIF form is enforceable.

9. Notwithstanding the release provisions appearing elsewhere in this Agreement, each Party expressly retains any future claims to enforce the terms of this Agreement.

10. Should either party, at any time, believe that the other party is in default of the terms of this Agreement, said party shall inform the breaching party of said default in writing of said default. Upon receipt of said written notice of default, the breaching party shall have 14 days to cure said default. Should the breaching party fail to cure said default within said time frame, the non-breaching party may proceed in bringing a legal action or other proceeding against the breaching party to enforce the terms of this Agreement.

11. This Agreement shall be specifically enforceable and shall be admitted into evidence without objection in the event that any Party shall bring a legal action or other proceeding to enforce it. However, this Agreement shall not be admissible in any legal proceeding, except to enforce its terms. In the event of litigation to enforce this Agreement, the prevailing party shall be entitled to collect reasonable attorneys' fees and costs from the other party.

12. This Agreement shall be construed and enforced under the laws of the State of Illinois, without regard for conflicts of law principles. The Parties agree that any claim brought to enforce this Agreement must be brought exclusively in the Circuit Court of the Nineteenth Judicial Circuit, Lake County, Illinois.

13. If any term or provision of this Agreement is held to be wholly or partially invalid, illegal, or contrary to public policy, such term or provision shall be modified to the extent necessary to be valid and enforceable and shall be enforced as modified.

14. This Agreement was negotiated at arm's length. Each Party had the opportunity to consult with independent legal counsel. None of the Parties shall be entitled to have any language contained in this Agreement construed against the other because of the identity of the drafter. For the purposes of construing this Agreement, each Party shall be considered a drafter of this Agreement.

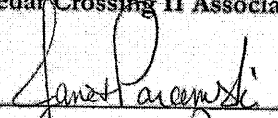
15. The legal rights and obligations of this Agreement are intended to, and shall, inure to the benefit of and be binding upon the Parties to this Agreement and their respective legal representatives, successors, and assigns.

16. This Agreement shall be effective when it is fully executed by all Parties and the signature pages are delivered to all Parties.

17. This Agreement shall be incorporated into a court order in the Litigation.

IN WITNESS WHEREOF, the undersigned Parties have executed and delivered this Agreement.

**Board of Directors for Townhomes
of Cedar Crossing II Association**

By: 
Printed Name: Janet Paramski
Position/Title: President
Date: 2/2/23

**Cedar Crossing II Master
Homeowners' Association**

Nancy
By: Massman
Printed Name: _____
Position/Title: President
Date: 02/07/2023

Digitally signed by Nancy Massman
DN: cn=Nancy Massman, o=Cedar
Crossing II HOA, ou
email=NancyMassman@cedar.com, c=US
Date: 2023.02.07 11:38:01 -0500