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**VIA ELECTRONIC MAIL:** [SGoren@gorencherof.com](mailto:SGoren@gorencherof.com)

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**RE: Heron Pond Condominium Association, Inc. (the "Association")**

Mr. Goren:

This letter will acknowledge receipt of your letter dated October 18, 2023 ("Your Letter"), responding to my letter of October 16, 2023. Your Letter communicates the City's denial of the Association's reasonable request for a 10-day extension to the 30-day notice issued by the City, requiring structural reports for the occupied buildings and rejected the assessment by the Association's engineers that certain units do not need to be vacated.

Respectfully, we find the City's position to be disingenuous, arbitrary, and capricious. Notably, the Association has already submitted to the City engineering reports for buildings 2, 3, 10, 5, 14, and 16, which were submitted back in August of 2023, as well as buildings 9, 11, and 12, which were submitted to the City on October 10, 2023. Today, the Association submitted engineering reports to the City for buildings 15, 13, 7, and 6, bringing the total reports submitted to the City by the Association within the past few months to 13 out of 19 buildings. Additionally, the engineering report for building 8 is anticipated to be submitted later today and building 17 is anticipated to be submitted by Monday, October 23<sup>rd</sup>, which will bring the total up to 15 out of 19 buildings.

To state the Association has not been diligent to the City's constantly changing requests and demands is clearly not accurate. Now, after months of the City creating additional conditions and rejecting previously submitted engineering reports, the Association was just notified for the first time this week that it will also need an asbestos certificate from Broward County to obtain its permits. As such, the Association immediately applied for the same, but was informed it could take up to 14 days to receive such certificate from the County.

We do not understand how the City can rely on the Association's engineers for the condition reports of the buildings, permit applications, and to report the ongoing conditions of the condominium as work progresses; however, the City will apparently not accept the same engineers' professional opinion that well over half of the units in the condominium do not need to be vacated. Moreover, notwithstanding the engineers' detailed structural reports and assessments, the City has chosen to arbitrarily characterize such reports as insufficient and stated it "cannot agree" with the professional engineers' assessment based on their "overtly qualified language." Engineering reports, as a matter of common practice, always include some "qualified language" as they represent an engineer's professional opinion based on what is known at the time of the report.

Here, the Association's engineers have provided very detailed reports based on their visual inspections. The City's position in response to these reports, however, seems to be that invasive, destructive inspections must take place; however, as the City well knows, the Association cannot undertake destructive inspections until the City issues the required permits. Yet the City refuses to issue the very permits the Association requires to conduct the inspections the City demands. Then the City has the audacity in Your Letter to state it "cannot understand why...the engineer of record is limited to conducting only visual inspections of the buildings..."

Contrary to the City's assertions, the Association has been meaningfully engaged in the process of submitting for repairs to the condominium with the City since back in April of this year. After the City rejected the work of the Association's initial engineer, the Association hired a larger firm to address the priorities and complete the work. Then the City continued to reject and comment on the Association's revised plans. Currently, the Association has five (5) engineering professionals dedicated to working on this project. This work presently includes, without limitation, the following:

- Responding to final permit review requests for Buildings 2, 3, and 10.
- Responding to initial permit review comments for Buildings 5, 14, and 16.
- Preparing reports for Buildings 9, 11, and 12.
- Documenting survey information for Buildings 13, 15, 7, and 8.
- Completing surveys for Buildings 6 and 17.

It seems apparent that the City is not acting in good faith with regard to the Association. Other than extreme abundance of caution, why would the City seek to vacate dozens of units that the engineering professionals have already stated in writing do not need to be vacated? This callous approach by the City is causing hundreds of hard working, residents (of your City) to have to immediately relocate at a huge cost and inconvenience. Some residents may have nowhere to go. These heavy-handed actions by the City, of requiring people to unnecessarily vacate their homes, is causing irreparable harm, for which the Association intends to seek damages.

We ask that the City reconsider the Association's reasonable request for a short extension. According to the Association's engineers, they anticipate submitting the final 4 reports for buildings 4, 1, 18, and 19 to the City within 10 days. As such, the Association respectfully requests an extension of the 30-day notice period until Tuesday, October 31, 2023. We also request the City acknowledge that only the units that have been identified by the engineer in the reports as unsafe will need to be vacated and not the remaining units.

Alternatively, the Association will have no choice but to proceed with legal action against the City for, among other things, emergency injunctive relief to preclude enforcement of the City's notices to vacate. Before proceeding to litigation, however, this correspondence shall serve to request that the City: a) reconsider the Association's request for an extension of time to provide the remaining structural reports; and b) accept the engineer's assessment of the units that do not need to be vacated based on visual inspection, or in the alternative, that the City issue the permits required for the destructive testing it demands and provide the Association with a reasonable period of time to conduct such new and additional testing. Given the imminent deadline, the Association requests a response by 5pm tomorrow, Saturday, October 21, 2023.

Respectfully,

*Ben Solomon*

Ben Solomon, Esq.  
FOR THE FIRM

cc: Paul Hernandez, Esq.  
Client