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July 19, 2024

Mr. Reuben Kim
Tinnelly Law Group
27101 Puerta Real, Suite 250
Mission Viejo, CA 92691

Re: Crown Royale HOA Assn – 24771 Castle Hill, Laguna Niguel
Anthony Swift

Dear Mr. Kim:

I am in receipt of your letter of June 20, 2024, with regard to my client Anthony Swift.

You continue to argue a 1978 unpublished opinion by the California Court of Appeal. Rule 8.1115 of the California Rules of Court prohibits an attorney from citing or relying upon an unpublished opinion. Your conduct in relying upon that opinion is unethical. I requested a copy of this unpublished opinion from you in my reply letter of April 23, 2024, and you ignored my request. I was recently advised by the Court of Appeal that their file on the case has been destroyed. **Demand is hereby made a second time for a copy of this unpublished decision.**

In your letter of June 20, 2024, you compounded your violation of Rule 8.1115 by arguing additional purported facts from the unpublished opinion. You state on page 3 of your letter: "(The Court found that the HOA had an enforceable interest in preserving property values, aesthetics, and safety)." Although "property values, aesthetics and safety" might be applicable to campers, motor homes and oversized vehicles, your comparison to normal passenger automobiles is misplaced.

You refer to a "published Missouri case" but to fail to provide any citation whatsoever. You would face sanctions from the court if you did that in court filings. **Demand is hereby made for the citation to that decision.**

You argue on page 3 of your letter that, "Section 3.15 is intended to avoid unsightliness of large recreational vehicle", however Mr. Swift is not parking a large vehicle on City owned public streets. Your argument therefore is without any merit and in bad faith.

You admit on page 3 that CC&Rs must be "uniformly enforced". There has been no prior enforcement of your claimed rule prohibiting parking on City owned streets. Mr. Swift has parked on City streets for the past 37 years. He was never cited during all those years until a dispute arose with a neighbor. This neighbor parked a full size commercial van without side windows in front of his house for a period of years without any enforcement action by the Association. The van was rarely driven. There is another neighbor on Castle Hill who parks 0 cars in his garage, 3 in his driveway and 2 on the public street with no complaint from the Association.

I note that you admit that the Association rules and CC&Rs must be "uniformly enforced". My client is the only homeowner that the Association has attempted to enforce your new restrictions for parking on the public streets.

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Based on several inspections, there are an estimated 60 to 70 vehicles regularly parked on the City streets in violation of your claimed rules. Attached are two photographs taken late yesterday afternoon which shows 25 cars parked on a short segment of Kings Road.

Demand is hereby made on behalf of my client that the Association forthwith investigate and enforce the parking restriction as against all residents of Crown Royale. As you are well aware, Associations have a duty to investigate complaints by residents of rules violations. If a violation exists, associations have a duty to enforce its governing documents. Nahrstedt v. Lakeside Village Condominium Assn. (1994) 8 Cal.4th 361, 373-374, 380-383. Furthermore, the enforcement of CC&Rs must be in good faith and not arbitrary or capricious, and by procedures which are fair and uniformly applied. Liebler v. Point Loma Tennis Club (1995) 40 Cal.App.4th 1600, 1610.

In the alternative, the Association should agree that the parking rule is no longer enforceable by reason of lack of enforcement for over 35 years.

An Association cannot enforce CC&Rs for the purpose of enabling one neighbor to harass another neighbor. Such conduct is clearly actionable against the Association and its management company, and also against each board member individually. Copies of all complaints made against Mr. Swift are hereby demanded. Such documents will reveal the bad faith in threatening my client with litigation.

I read your earlier letter of March 25, 2024, as threatening to have the Association or the management company tow my client's cars parked on the City street. I note that you now admit: ". . . [T]he Association may lack authority to tow vehicles from public streets . . ." I understand that there may be criminal penalties attached to such towing. Threatening to engage in illegal and/or criminal conduct certainly establishes bad faith by you and your client. Such conduct constitute intentional infliction of emotional distress as well as elder abuse.

Your lengthy re-writing of Section 3.16 of the CC&Rs was done between December 7, 2023 and January 23, 2024. This is evidenced by the Association's letters of those dates. Prior thereto, the rule always followed for many years is stated in the Association's letter of February 8, 2021. In the second paragraph of that letter, the following is stated:

"Please read the applicable CC&Rs listed below. As required, park at least one motor vehicle in your garage, then any others on your driveway and as a last resort on the street." (Emphasis supplied)

Your rewriting of Section 3.16 followed your unsuccessful attempt at claiming that my client's low-speed vehicle (constantly referred to as a golf cart) could not be parked on the driveway or the street, and did not qualify as "one motor vehicle" parked in the garage. Note the "good news" in the second paragraph of the January 23, 2024 letter. (Copies of the letters dated December 7, 2023, January 23, 2024 and February 8, 2021 are attached hereto.)

It appears that your attempt to revise Section 3.16 of the CC&Rs was done in an attempt to justify a fraudulent lawsuit against my client, which constitutes a clear case of malicious prosecution.

You have intentionally ignored the effect of the Accessory Dwelling Units statutes on the enforcement of CC&Rs. A.B. 1584 (effective January 1, 2022), added two sections to the Civil Code regarding an accessory dwelling unit ("ADU") or a junior accessory dwelling unit ("JADU") being built on a single family lot, including a garage conversion.

Civil Code Section 714.3 is under the general real property statutes. The text of this section is as follows:

"(a) Any covenant, restriction, or condition contained in any deed, contract, security instrument, or other instrument affecting the transfer or sale of any interest in real property that either effectively prohibits or unreasonably restricts the construction or use of an accessory dwelling unit or junior accessory dwelling unit on a lot zoned for single-family residential use that meets the requirements of Section 65852.2 or 65852.22 of the Government Code is void and unenforceable. (Emphasis supplied)

"(b) This section does not apply to provisions that impose reasonable restrictions on accessory dwelling units or junior accessory dwelling units. For purposes of this subdivision, "reasonable restrictions" means restrictions that do not unreasonably increase the cost to construct, effectively prohibit the construction of, or extinguish the ability to otherwise construct, an accessory dwelling unit or junior accessory dwelling unit consistent with the provisions of Section 65852.2 or 65852.22 of the Government Code."

Civil Code Section 4751 is part of the Davis-Stirling Common Interest Development Act which regulates homeowner's associations. This statute is virtually identical to Civil Code Section 714.3.

"(a) Any covenant, restriction, or condition contained in any deed, contract, security instrument, or other instrument affecting the transfer or sale of any interest in a planned development, and any provision of a governing document, that either effectively prohibits or unreasonably restricts the construction or use of an accessory dwelling unit or junior accessory dwelling unit on a lot zoned for single-family residential use that meets the requirements of Section 65852.2 or 65852.22 of the Government Code, is void and unenforceable."

"(b) This section does not apply to provisions that impose reasonable restrictions on accessory dwelling units or junior accessory dwelling units. For purposes of this subdivision, "reasonable restrictions" means restrictions that do not unreasonably increase the cost to construct, effectively prohibit the construction of, or extinguish the ability to otherwise construct, an accessory dwelling unit or junior accessory dwelling unit consistent with the provisions of Section 65852.2 or 65852.22 of the Government Code."

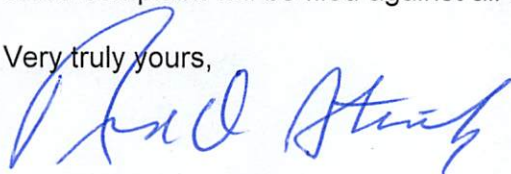
Associations had previously been refusing to allow ADU's and JADU's and asserting a variety of excuses based on their CC&Rs. AB 1584 was then passed to send a stern message to Associations that they were required to follow State law allowing a second dwelling to be built on each single-family lot. In the alternative, a JADU could be built in a garage conversion without replacing the garage parking. This has the effect of forcing tenants of JADUs to park on public streets, notwithstanding CC&R provisions to the contrary.

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Section 9-1-35.27 of the City of Laguna Niguel Municipal Code is headed up as "Junior accessory dwelling unit (JADU), a copy of which section is attached. Section (c)(8) states: "(8) *Parking*. No additional parking is required for a JADU."

Based on the foregoing, the Association parking restrictions on public streets are clearly unenforceable and "void". Prior to filing your threatened lawsuit, I would urge you to research the law and investigate the facts in good faith. Any lawsuit will be vigorously defended and a cross-complaint will be filed against all appropriate persons.

Very truly yours,



RONALD D. STEINBACH

Encls. Two photos and letters dated December 7, 2023, January 23, 2024 and February 8, 2021

Crown Royale Homeowners Assoc.
c/o Seabreeze Management Company, Inc.
26840 Aliso Viejo Parkway, Suite 100 Aliso Viejo, CA 92656
Phone (800) 232-7517 Fax (949) 855-6678
<https://Commarea.Cincwebaxis.com/CrownRoyale>

December 7, 2023

Anthony Swift
24771 Castle Hill
Laguna Niguel, CA 92677

VIA CERTIFIED AND FIRST-CLASS MAIL

**RE: Crown Royale Homeowners Assoc.
Hearing Response/ Other No Fine
24771 Castle Hill**

Dear Anthony Swift:

This letter is being sent to you regarding the scheduled hearing held on 11/29/23 to discuss the open violation regarding:

- Multiple vehicles parked at your property.

The Board of Directors at the recent Board meeting determined to table this hearing to their next meeting to obtain a recommendation from the Association's legal counsel. A letter will be mailed to you with the Board of Directors decision after their next meeting which is scheduled for January 17, 2024.

Thank you for your patience in resolving this matter.

If you have any questions, please contact our Manager, Andrea Hoff at (800) 232-7517 or at andrea.hoff@seabreezemgmt.com.

Respectfully,
The Board of Directors,
Crown Royale Homeowners Assoc.

Crown Royale Homeowners Assoc.
c/o Seabreeze Management Company, Inc.
26840 Aliso Viejo Parkway, Suite 100 Aliso Viejo, CA 92656
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January 23, 2024

Anthony Swift
24771 Castle Hill
Laguna Niguel, CA 92677

VIA CERTIFIED AND FIRST-CLASS MAIL

RE: Crown Royale Homeowners Assoc.

Hearing on Rules Violation - 24771 Castle Hill

Dear Anthony Swift:

On November 29, 2023 you attended a scheduled hearing for the CC&R violation of parking cars on the street while space in the garage was being used for storage. During the meeting you expressed that there were no regulations that prohibited using the garage as you saw fit and parking cars on the driveway as well as the street. The Board informed you that it would table the hearing to the next meeting which took place January 17, 2024. You were invited to a hearing on this date. Meanwhile the Board discussed the matter with legal council and received their analysis of the CC&Rs garage storage and parking as well as those that pertain to golf carts and low-speed vehicles since that has been an issue discussed with you. Legal staff advised:

With regard to low-speed vehicles we have good news. It appears that so long as the low-speed vehicle is in compliance with California Vehicle Code by being currently registered in 2024, licensed with tags, and insured as required, the fine will be waived and you may park the vehicle in a garage or on the driveway and drive it on the streets of the Crown Royale HOA. The association is in the process of amending the Rules and Regulations to include a new section related to Low-Speed Vehicles, you will hear more about that in the near future.

With regard to using your garage for storage, your driveway to park cars and additional cars parked on the street that is in violation of the CC&Rs. Legal counsel provided the following:

CC&Rs Article II. Garage Storage Parking Policy"

Section 3.16 of the Declaration (CC&Rs) states, in pertinent part:

"No storage in a Garage shall be permitted which precludes the use of the space of such Garage for parking of at least one (1) motor vehicle or otherwise if such storage will result in the Owner of such Garage using on street parking within the Project in lieu of his/her Garage for parking purposes."

"The purpose of this restriction is to prevent owners from opting for on- street parking within the Association instead of utilizing their garage for parking, thereby creating less congestion on the street and opening up more parking spaces for guests and invitees."

A homeowner that parks at least one vehicle in a garage, uses the other garages for storage and parks 3 additional cars on the driveway but none on the street - that is permitted.

A homeowner that parks 3 vehicles in his 3 garages, 3 more on the driveway and one or more on the street, that is permitted.

A homeowner that parks one or two vehicles in the garages and uses the second or third garage for storage; parks three vehicles on the driveway and more on the street is in violation of the CC&Rs.

At the January 17, 2024 Crown Royale Board meeting the Board voted to fine you \$50 for parking your golf cart on the

driveway of your home. You were invited to attend this meeting as per rules and regulations.

If you have any questions please contact our Community Manager Andrea Hoff at 949-672-9084 or via email at andrea.hoff@seabreezgmt.com.

Respectfully,
The Crown Royale Homeowners Assoc. Board of Directors

Crown Royale Homeowners Association
c/o Seabreeze Management Company, Inc.
26840 Aliso Viejo Parkway, Suite 100
Aliso Viejo, CA 92656
(949) 855-1800 (949) 855-6678 Fax

February 8, 2021

Anthony Swift
24771 Castle Hill
Laguna Niguel, CA 92677

Re: Crown Royale Homeowners Association
First Community Reminder - 24771 Castle Hill

Dear Anthony Swift:

You have already received correspondence regarding the golf cart that is not permitted to be stored or parked outside of your garage. This separate notice pertains to vehicles associated with your property.

We have received a number of complaints about the amount of vehicles parked in your driveway and on the street. Please read the applicable CC&Rs listed below. As required, park at least one motor vehicle in your garage, then any others on your driveway and as a last resort on the street. Should you fail to follow the CC&Rs the fine schedule is attached. This letter serves as notice that you or members of your family are out-of-compliance. Please do your part to be a good neighbor and to keep our HOA as pristine as possible.

Per CC&Rs Section 3.15 & 3.16, HOA Rules Section VIII: "No trailer, camper, boat or similar vehicle or equipment shall be stored or maintained within the Project unless within a Garage or otherwise hidden from view from the other Residential Lots by a wall, fence, or other appropriate screen approved by the ACC..." "No storage in a Garage shall be permitted which precludes the use of space of such Garage for parking of at least one (1) motor vehicle..."

Thank you for your anticipated cooperation as it is our sincere desire that these matters be promptly resolved in order to avoid further action. It is important to work together in keeping our community pleasurable. This in turn will protect our investment by doing what we can to keep the value of our home at a maximum and the detractions at a minimum.

conform to the objective standards set forth in subsections (1) through (20) of this section may be allowed by the city pursuant to Alternative Development Standards subject to approval of a site development permit in compliance with the provisions of section 9-1-114.

(Ord. No. 2021-211, § 4, 8-3-21; Ord. No. 2023-223, § 3, 6-20-23)

Sec. 9-1-35.27. - Junior accessory dwelling unit (JADU).

modified

- (a) *Purpose.* This section provides standards and criteria for the establishment of JADUs within residential districts consistent with California Government Code Section 65852.2 and 65852.22 and shall be so construed.
- (b) *Permit required.* JADUs consistent with this section shall be reviewed ministerially in compliance with Government Code Sections 65852.2 and 65852.22, and shall require a building permit.
- (c) *Development standards.* The development standards set forth in subsection (c) shall apply to all JADUs.
 - (1) *Zoning.* JADUs shall be permitted in single-family residential zoning districts.
 - (2) *Sale, rental and occupation of units.* The JADU shall not be sold separately from the primary dwelling unit and shall not be rented for a period of less than 30 consecutive days. In addition, either the JADU or the primary dwelling in which the JADU is located shall be occupied by the property owner at all times, unless the property is owned by a government agency, land trust or housing organization.
 - (3) *Deed restriction.* A deed restriction prepared by the city shall be recorded on the subject property prior to issuance of building permits stating that the JADU is subject to the requirements of this section, shall not sold separately from the primary dwelling unit, shall not be rented for less than 30 consecutive days, and that either the JADU or the primary dwelling in which the JADU is located shall be occupied by the property owner at all times.
 - (4) *Number of units allowed.* One (1) JADU shall be allowed to be converted or constructed within the walls of an existing or proposed primary residence. In addition to the one (1) JADU allowed in this section, an applicant may also have one ADU so long as it complies with the requirements of section 9-1-35.26.
 - (5) *Unit size and construction.*
 - a. A JADU shall not exceed 500 square feet.
 - b. A JADU must be contained within the walls of an existing or proposed single-family dwelling. A JADU may be located on the second floor of an existing or proposed

single-family dwelling.

- c. All JADUs shall contain the necessary interior amenities, including an efficiency kitchen, which shall include the following, subject to California Building Code requirements:
 - i. A cooking facility with appliances.
 - ii. A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.
- (6) *Sanitation facilities.* JADUs shall provide sanitation facilities. The JADU can either provide its own separate full bathroom, or it may share sanitation facilities with the primary residence. If the JADU does not include its own separate full bathroom then it shall provide an interior entrance to the primary dwelling and provide clear and unobstructed access to the designated full bathroom.
- (7) *Access.* Exterior access shall be provided for all JADUs separate from the main entrance to the primary residence. For JADUs that share sanitation facilities with the primary residence, the JADU shall have interior access as well.
- (8) *Parking.* No additional parking is required for a JADU.
- (9) *Architectural compatibility.* Any new construction which provides exterior access shall match the style, color, and materials of the primary residential unit.
- (10) *Fire sprinklers.* Fire sprinklers shall be required for a JADU, if they are required for the primary residence.
- (11) All JADUs must meet the requirements of the California Building Code, as adopted and amended by [title 8](#) of the City of Laguna Niguel Municipal Code.
- (12) *Services, impact fees and utility connections.* JADUs are not subject to service fees, impact fees, or utility connection fees.
- (13) *Fire safety requirements.* The construction of all new JADUs shall meet minimum standards for fire safety as defined in the California Building and Fire Code.
- (14) *Planned residential development.* In the event that a planned residential development includes standards that would preclude the construction of a JADU that would otherwise be permitted under this section, the requirements of this section shall apply, and shall supersede the planned development standards as applied to JADUs within the applicable planned development district.
- (15) *Rental terms.* No JADU shall be rented for a term that is shorter than 30 days. This prohibition applies regardless of when the JADU was created.
- (16) *Nonconforming JADUs and discretionary approval.* Any proposed JADU that does not

conform to the objective standards set forth in subsections (1) through (15) of this section may be allowed by the city pursuant to Alternative Development Standards subject to approval of a site development permit in compliance with the provisions of section 9-1-114.

(Ord. No. 2021-211, § 5, 8-3-21; Ord. No. 2023-223, § 4, 6-20-23)