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Attorneys for Plaintiff

IN THE SUPERIOR COURT OF ARIZONA

COUNTY OF MARICOPA

NICDON 10663, LLC, an Arizona limited liability company,
 	
            Plaintiff,
 	
      vs.
 	
DESERT MOUNTAIN MASTER ASSOCIATION, an Arizona nonprofit corporation,
 	
            Defendant.
	No. CV2018-015165
	
	PLAINTIFF'S FIRST REQUEST FOR PRODUCTION TO DEFENDANT

Plaintiff, Nicdon 10663, LLC ("Plaintiff"), by and through undersigned counsel, hereby requests that defendant Desert Mountain Master Association produce for inspection and copying at the offices of Dessaules Law Group, 5353 North 16th Street, Suite 110, Phoenix, Arizona 85016, within ten (10) business from the date of service of this demand pursuant to the parties' Stipulated Request to Continue Hearing and Set Status Conference and Motion for Expedited Discovery.

Instructions

1.   If any document within the scope of this request is withheld from production based on a claim of privilege or on any other basis:

      a.   Describe the withheld document in sufficient detail to identify it by providing the document's name, date, general subject matter and the name(s) of its author(s), recipient(s) and/or copyee(s);

b.   Identify the grounds and reasons for withholding the document; and

c.   Disclose the facts upon which you rely on for withholding the document.

2.   If any document within the scope of this request is not produced because it either is no longer in your possession, custody or control or is no longer in existence, provide a statement as to such document indicating:

a.   The general subject matter of the document;

b.   The disposition of the document, including whether the document is missing, lost, destroyed, transferred to others or other otherwise disposed of;

c.   The general circumstances surrounding the disposition of the document;

d.   The authorization for such disposition; and

e.   The date of the disposition.

Definitions

1.   "You" (and its derivative forms), "DMMA" or "HOA" shall mean Desert Mountain Master Association, its agents, its representatives, its employees, including but not limited to all persons under its control or direction or acting on its behalf.

2.   "CMMC" shall mean Capital Consultants Management Corporation, its agents, its representatives, its employees, including but not limited to all persons under its control or direction or acting on its behalf.

3.   "Document" shall have the meaning proscribed to it in Rule 34(a).

4.   "Communication" or "correspondence" shall mean all inquiries, discussions, conversations, negotiations, agreements, understandings, meetings, meeting minutes (i.e., formal and informal minutes and notes of meetings), telephone conversations, letters, notes, emails, or other forms of information exchange, whether written or oral.

5.   "Amendment" shall mean the Certificate of Amendment to Exhibit E of the Second Amended and Restated Master Declaration of Covenants, Conditions, Restrictions, Assessments, Charges, Servitudes, Liens, Reservations and Easements for Desert Mountain and the Amendment

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recorded in the Maricopa County Recorder's Office on or about July 16, 2018 at Instrument No. 20180540413, which imposes new leasing restrictions including, but not limited to, leases being for a term of not less than thirty (30) days.

6.   The terms "any," "each," "every" and "all" shall be construed as all-inclusive, requiring the production of each and every document or item of information responsive to the particular request in which such term appears.

DOCUMENTS TO BE PRODUCED

1.   All drafts of the Amendment.

2.   All ballots tallied for and against the Amendment.

3.   The roster of homeowners in effect at the time that the ballots were tallied which identifies those homeowners who were eligible or not eligible to vote on the Amendment.

4.   All Minutes of Meetings (for both open and executive meetings) where the Amendment was discussed.

5.   All documents that were sent to the homeowners related in any way to the Amendment or voting thereon including, but not limited to: Notices of Meetings; proposed amendments; explanations for each proposed amendment; and, meeting agenda.

6.   All video and/or audio recordings of all HOA meetings, whether open or executive, where the Amendment was discussed.

7.   All correspondence (including emails, text messages, letters, notes, voice mails, etc.) by and between Kevin Pollock and CCMC, Rich Sherman and any other board members who sat on the Board from January 1, 2017 to the present regarding the Amendment, including, but not limited to: drafting the Amendment, the voting process/procedure for the Amendment; the calling of any meetings regarding the Amendment; discussions pertaining to what provisions of the CC&Rs must be complied with to pass the Amendment:

8.   All documents and correspondence pertaining to the alleged "Special Meeting" occurring on or about May 1, 2018 including, but not limited to:

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a.   Copies of all announcements/electronic newsletters sent to the community;

b.   Copies of any announcements placed on the bulletin boards adjacent to community mail stations.

c.   Copies of the meeting minutes associated with the May 1, 2018 Meeting.

d.   Indication of what Board members were present, in person at the meeting;
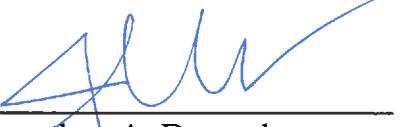
e.   Indication of what Board members were present, via remote connection, at the meeting.

f.   Indication of other attendees at the meeting

DATED this 17th day of January 2019.

DESSAULES LAW GROUP

By: _____
Jonathan A. Dessaules
Jacob A. Kubert
Attorneys for Plaintiff

ORIGINAL of the foregoing hand-delivered this 17th day of January 2019.

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