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VIA REGULAR MAIL AND EMAIL

March 29, 2023

Owners of Bywater Way Road Maintenance Association

RE: Responsibility for roads and assessments for maintenance

Dear Owners,

Our office was asked to review your Covenants and Declaration of Road Maintenance and give an opinion if any statutes regulate the Bywater Way Road Maintenance Association and if the Association had the authority to assess costs to Owners for road maintenance.

The legislature enacted RCW 64.38 in 1995 to create consistency in formation and legal administration of common interest communities that were not condominiums or other forms of ownership. Under RCW 64.38.010(12,) a Homeowners' association or "association" is defined as:

"a corporation, unincorporated association, or other legal entity, each member of which is an owner of residential real property located within the association's jurisdiction, as described in the governing documents, and by virtue of membership or ownership of property is obligated to pay real property taxes, insurance premiums, maintenance costs, or for improvement of real property other than that which is owned by the member."

The Covenants and Private Road Easement and Maintenance Agreement, recorded in Jefferson County on December 12, 1988, bind all Lots within the Bywater Way subdivision to pay equal shares for maintenance on the easement roads. This requirement makes Bywater Way Road Maintenance Association an HOA under RCW 64.38. By purchasing a Lot within Bywater Way Road Maintenance Association, you became a member of the Association and are equally responsible with the other Owners for the maintenance and repair of the common roads.

RCW 64.38.020(2) allows the Association to: "adopt and amend budgets for revenues, expenditures, and reserves, and impose and collect assessments for common expenses from Owners." Further, RCW 64.38.020(11) allows the Association to impose and collect charges for late payment of assessments.

Your Board is working diligently to discover ways to repair and maintain the roads that you all use for ingress and egress to your homes.

Sincerely,

CONDOMINIUM LAW GROUP, PLLC


Jennifer J. Mullin De Winter
Attorney