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**Jessica McCarron**

**From:** markc@stratamet.com  
**Sent:** Thursday, September 30, 2021 9:58 PM  
**To:** Jessica McCarron  
**Subject:** FW: Granting of SOA Property Easements for Personal Use.  
**Attachments:** Burke executed agreement HOA (002).pdf

Jessica,

Can you please place this letter and the attachment in the Board packet as background information pertaining to the requested easement for homeowner Michael Burke.

Thank you!  
-Mark

Letter from Michel Burke  
RE: Easement request

Of extreme relevance here, is the 2015 Agreement that the SOA entered into. See attached. As I mentioned, Toll Brother's pulled out of Subdivision 5C (where my house is located) in 2009, they came back in 2010 (I believe) under threat of litigation and did everything they could to complete the 5C build out they were obligated to do under their development agreement. Then somewhere around 2013 they tendered the common area (including APN 234-270-02 ) to the SOA (although the recording of the tender did not occur until 2016). SOA accepted the tender without requiring Toll to install all the improvements to the common area - including rock walls/rip rap. By 2015, I had been fighting with the SOA for several years to get it to maintain the common area behind and to the side of my house, because the SOA did not even know it owned the land. As an adjoining landowner, Nevada law provides that the SOA legally did (and still does) have to ensure that my house has proper adjacent and lateral support. In other words, the SOA must maintain, upkeep, and improve its land in such a way that my property is not affected by the lack of upkeep and lateral support. The SOA's failure to maintain this land had resulted in my patio slipping away, the fence falling over, and just general erosion. Thus, after raising this issue, my wife and I came to an agreement with the SOA in which the SOA agreed to install the little retaining wall that you see in the picture of the Objections, and then landscape the area as well. Notably, in the settlement agreement, the SOA must maintain its improvements on its own land. Further, all such improvements are solely for the benefit of my property. See Section 10 of the Attached Settlement.

Fast-forward six years, and I have had to continue to fight with the SOA, each and every year (I'm happy to show all the emails and communications we have had on this), to get it to honor its 2015 agreement (including watering and maintaining the landscaping it installed); each failure to maintain is a breach of the Settlement Agreement (in my opinion). The easement that we have proposed, is a solution to this continuing mess, in that we take it over, maintain it, and improve it. The history here, and the prior settlement agreement with the SOA (which I suspect the SOA does not even have on record) is what makes this request hyper-unique and not something that would subject the board to a request by every homeowner. To further this point, my house is unique in that my

property abuts a gas and utility easement owned by the SOA. The grading of the property is such that the Southeast corner of my lot sits up about 5-6 ft above the SOA's lot, which is unimproved and will remain unimproved (this is specific to my lot and not applicable to any other lots in Somerset that I know of). All other grade variations of this size between abutting property lines are buttressed with rock walls/rip rap, and involve adjoining lots that are both improved. Again, the SOA did not require Toll to complete this prior to accepting the tender of the common area. If you look at the picture attached to the objection, the wall stops short on the southeast corner and this is where the dirt is again sliding, along with the overgrown plants, weeds, and rocks that the SOA placed against my fence to "sure it up". Finally, just for context, where you see the cinderblock wall in the pictures, that is basically where the proposed easement stops (in other words, we are talking about the area from my fence line to the cinder block wall, that is the depth of the proposed easement - not all the land that is shown past the cinder block wall).

I have a lot more that I can/will present on this issue at the October 13th meeting, and am happy to write up a formal response to the objection, but I at least wanted to respond quickly to this and just point out that this is not a "land grab." Rather, we have been dealing with this issue for 12 years (longer than most people have even lived in Somerset), we reached a Settlement Agreement in 2015, but the issues just keep reoccurring and the SOA is not honoring its legal obligations under a settlement agreement it entered into. The proposed easement would permanently resolve this issue, allow us to take over the maintenance and improvements, and relieve the SOA from future obligations and continuing liabilities.

As you review, please feel free to call with any questions.

Thanks,

Mike Burke