



COMMUNITY ASSOCIATION LAW GROUP

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January 29, 2018

Owners at Crooked River Ranch
5195 SW Clubhouse Road
Crooked River Ranch, OR 97760

RE: Alternative Exit at CRR

Dear Owner:

I am the attorney for Crooked River Ranch. The purpose of this letter is to provide background to the alternate exit project and explain the Association's legal authority to move forward with the project.

Background

Crooked River Ranch was developed with only one roadway to enter and exit the community. In the event of an emergency or natural disaster, the ability of owners to exit the community (and for emergency vehicles to enter) will be severely limited.

Several years ago, Jefferson County identified several priorities relating to roadways and safety at Crooked River Ranch. One of the priorities included the development of approximately “1 mile of an all weather surface, ideally paved.”¹

In 2013, Jefferson County prepared a natural hazards mitigation plan.² The plan identified several natural risks, including wildfires and mudslides. Most concerning is this statement:

Jefferson County has several “one-way out” communities with a single access route, most notably Crooked River Ranch, Three Rivers, and subdivisions near Lake Billy Chinook. Should a natural disaster negatively affect these limited access routes these communities will be greatly impacted.

The discussion about an alternative exit began many years ago. After the wildfire in 2007, residents of the Ranch formed a committee to explore alternative routes in and out of the community.³ According to the fire chief at the time:

‘Right now it’s tough to evacuate citizens away from the fire and to get firefighting resources into the fire,’ said Crooked River Ranch Fire Chief Larry Langley. ‘It’s a constant worry.’

Right of Way

Over the last four and a half years, discussions of an alternate exit have continued between the Association, the federal Bureau of Land Management, Jefferson County, and Deschutes County. The BLM has agreed to grant a right of way across BLM land in order to construct a road to serve as a secondary means in and out of the ranch.

¹ http://www.crookedriverranch.com/files/1115/0576/8292/Jefferson_County_Community_Protection_Plan.pdf

² https://www.jeffco.net/sites/default/files/fileattachments/public_safety/page/3961/jefferson_county_nhmp_update_2013.pdf

³ <http://www.bendbulletin.com/news/1439992-151/crooked-river-ranch-residents-seek-way-out>

Estimated costs for construction of the secondary exit are between \$700,000 and \$900,000.⁴ Jefferson County has agreed to contribute \$100,000 toward the construction costs. Deschutes County has preliminarily (but not officially) agreed to also contribute \$100,000 with the understanding that the alternative exit will be paved. In addition, Jefferson County has agreed to loan the Association the remainder of the construction costs at a 0% interest rate.

The BLM has prepared a map showing the location of the secondary exit.⁵ In addition, the BLM is requiring certain improvements and conditions.⁶ Most of the conditions relate to preservation of the environment and safety.

Some owners have questioned the need for a paved road, rather than a gravel road. First, FEMA recommends that roadways should be able to support a minimum of 40,000 pounds to allow for heavy emergency vehicles.⁷ Secondly, depending on the amount of traffic, the costs of maintaining a paved road may be significantly less than maintaining a gravel road.⁸

Legal Authority

Any subdivision in Oregon with common property or collective obligations is a “planned community.” Crooked River Ranch has common property and owners collectively pay dues for the operations of the community. Thus, Crooked River Ranch is an Oregon planned community.

All planned communities are governed by the Planned Community Act, ORS Chapter 94. The Act identifies the Association’s powers and obligations. One of the Association’s powers is to:

Acquire, hold, encumber and convey in its own name any right, title or interest to real or personal property[.]

⁴ <https://www.dropbox.com/s/vtnwd80l7y76zqf/CRR%20Emergency%20Exit%20Construction%20Plans%20Draft.pdf?dl=0>

⁵ https://eplanning.blm.gov/epl-front-office/projects/nepa/72693/113833/139064/Decision_map.pdf

⁶ <https://www.dropbox.com/s/wk3pr9hc3a82bzx/crr%20row%20stipulations.pdf?dl=0>

⁷ https://www.fema.gov/media-library-data/20130726-1652-20490-8731/fema_p_737.txt

⁸ <http://www.mnltap.umn.edu/publications/factsheets/documents/paveornot/brochure.pdf>

An “interest” in real property is legal share in something or part of a legal or equitable claim to or right in property.⁹ The BLM’s right of way granted to the Association and Special Roads District is an “interest” in real property and therefore authorized under ORS Chapter 94.

As mentioned above, Jefferson County is loaning the Association the funds necessary to construct the secondary exit. A slight increase in annual assessments will be used to repay the loan to Jefferson County. Because the increase in annual assessments is not a “special assessment”, the Board has the authority to use the funds generated by regular assessments without approval from the owners.¹⁰

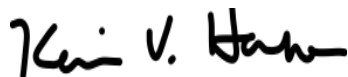
The use of assessments is governed by Article IV, Section 2 of the Covenants, Conditions, and Restrictions for Crooked River Ranch. The Board of Directors is authorized to use assessments for:

promoting the recreation, health, safety and welfare of the residents[.]

The use of Association funds for the construction of the secondary exit falls under the promotion of health and safety of the residents at Crooked River.

In short, the Board of Directors has the legal authority to enter into the right of way agreement with the BLM and use Association funds for the construction of the secondary exit. Please let me know if you have any questions

Sincerely,



Kevin V. Harker

⁹ *Bank of Am., NA v. Wilson*, 276 Ore. App. 238 (2016)

¹⁰ Bylaws, Article XIV, Section 5.