

March 27, 2023

**VIA U.S. & ELECTRONIC MAIL: ([brian\\_pirzadeh@yahoo.com](mailto:brian_pirzadeh@yahoo.com))**

Brian Pirzadeh  
2140 Santa Cruz Avenue #Unit C208  
Menlo Park, CA 94025

**Re: The Menlo Commons Association  
Response to March 2, 2023 Email Regarding AT&T Contract**

Dear Mr. Pirzadeh,

Berding Weil LLP represents The Menlo Commons Association (“Association”). At the request of the Board, we have been asked to write to you to respond to your email dated March 3, 2023, sent to the Association’s manager, Ms. Dillon-Lee, as a “formal claim” regarding the Association’s AT&T bulk service contract (“Subject Email”) for services to the Association and its owners.

### **Background**

Based on our review of the Subject Email, we understand that you claim: (1) the Association has no right to assess a monthly mandatory charge for AT&T U-verse service as part of the monthly HOA assessment, (2) the Board took away owners’ rights to opt out of this service, and (3) the Board has allowed the contract to auto-renew for the past two years without communicating this to owners. We further understand that you have made two demands on the Association: (1) for reduction of your monthly assessment starting April 2023 for the AT&T charges and in exchange the cancellation of the service to your unit, and (2) for reimbursement for your monthly AT&T charges during the time period of April 2022 to March 2023. Please accept this letter as our response to your claims and demands, which we address in turn below.

### **Applicable Governing Documents**

Section 5.2 of the Association’s CC&Rs state: “In addition to the powers enumerated in the Articles and Bylaws, or elsewhere provided for herein, and without limiting the generality thereof, the Association shall have the following powers:

A. Utility Service: **The Association shall have the authority** (but not the obligation) **to obtain, for the benefit of all of the Condominiums**, all water, gas and electric service, refuse collection, janitorial or window cleaning service, and **CATV**. (emphasis added.)

[..]

L. Contracts: The Board shall have the power to contract for goods and/or services for the Common Area(s), for the Condominiums, or for the Association, **subject to limitations set forth in the Bylaws, or elsewhere in this Declaration.**

Section 7.2 E of the Bylaws states the Board of Directors shall have the power to Contract for goods and/or service in accordance with Section 5.2L of the Declaration.

Based on the foregoing provisions of the Governing Documents, the Board has acted within its delegated powers of authority to contract for the AT&T bulk services contract. The Governing Documents do not obligate the Board to allow owners to opt out of this service nor do they require the Board to inform owners of the auto-renewal of the contract.

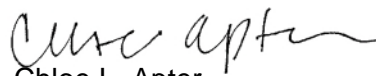
With respect to your claim regarding the authority to assess owners for this cost, Section 4.1 of the CC&Rs states in pertinent part: "Each Owner of each Condominium within the Project, hereby covenants, and each Owner of any Condominium by acceptance of a deed for that Condominium, whether or not it shall be so expressed in such deed, covenants and agrees: (1) to pay Regular Assessments, Special Assessments and Reimbursement Charges to the Association as established in this Declaration." In purchasing your unit in the Association, you agreed to be bound by the provisions of the CC&Rs, which include the express agreement to pay Regular Assessments, which include the cost of AT&T services.

The Board understands your frustrations regarding the alleged problematic service provided to you by AT&T but has balanced this against the benefit it provides to the community as a whole and will not consider cancelling the contract with AT&T for the services provided.

Given the foregoing, the Board hereby declines your demands and considers this matter addressed and closed. Thank you for your attention to this matter.

Very truly yours,

**BERDING & WEIL LLP**



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Attorney

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cc: Board of Directors