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November 13, 2007

Plum Creek Master Homeowners Association, Inc.
% Pristine Communities
P.O. Box 124
Castle Rock, CO 80104

Re: Trash Removal as Common Expense

Dear Members of the Board:

On behalf of the Board of Directors, John O'Connor, asked us two questions for the Association: 1) can the Association provide trash removal to all Members of Plum Creek Master Homeowners Association, Inc.; and 2) can the cost of the trash removal be paid as a Common Expense?

Subject to the following discussion, the answers are yes and probably not.

The General Rule is that an Owner is responsible for the maintenance and upkeep of his property at his expense. The General Rule can be modified by contract or statute. The Colorado statutes are silent on the matter of trash removal.

Article IV, Section 2 of the Master Declaration Creating Covenants, Conditions, Restrictions, and Easements for Plum Creek ("Declaration") states:

"assessments levied by the Master Association shall be used to promote the recreation, health, safety, and welfare of the residents of the properties, for the improvements and maintenance of the Common Property ..."

Article IV of the Articles of Incorporation of the Plum Creek Master Association, Inc. states:

... and the specific purposes for which it [the Master Association] is formed are to provide for the maintenance, preservation, and architectural control of the Common Property, and architectural control of the Lots, Condominium Units, Common Area, and Common Elements ...

November 13, 2007
Page 2

Although the Board may use a company of their choice to provide voluntary trash removal within the community pursuant to the health, safety, and welfare clause in the Articles of Incorporation, the Board's authority to use the common expense assessments to pay the cost to remove the trash probably exceeds the purposes outlined in Article IV, Section 2 of the Declaration, as well as Article IV of the Articles of Incorporation.

It is also relevant that the Association has not provided trash removal in the past. Therefore, in attempting to offer trash removal, the Association is attempting to broaden its duties and obligations as set forth under the Declaration.

In order to allow the Association to use common expense assessments for the purpose of trash removal, the Declaration would need to be amended.

If you have any questions or require further explanation please let me know.

Sincerely,

RICHARD W. JOHNSTON, P.C.

By: _____
Timothy R. Lamberton