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Via U.S. First Class Mail, Postage Prepaid
Via Electronic Mail (bobxtaylor@hotmail.com)

June 19, 2020

Robert M. Taylor
11865 Loudoun Place
Fishers, Indiana 46037

RE: Oak Hall Homeowners Association, Inc. – 11865 Loudoun Place, Fishers,
Indiana 46037
FOR SETTLEMENT AND NEGOTIATION PURPOSES ONLY

Dear Mr. Taylor:

As you know from prior correspondence, this law firm represents Oak Hall Homeowners Association, Inc. ("Association"). Upon and after viewing the recently aired WTHR story, the Association's Board of Directors has learned additional and more accurate information regarding the dimensions of your current pool, your intentions for your current pool, and your arguments why you believe that you are not in violation of the Association's governing documents.

While the Association would have preferred to learn this information in a less circuitous manner, the Association desires to put the past aside in light of this new information, and work toward settlement at this time solely to avoid any further expense, inconvenience, and uncertainty.

Particularly given your recently-expressed intention to keep your pool only through the Summer of 2020, the Association is willing to refrain from taking any further action during this timeframe so long as certain conditions are met. These conditions and other terms are set forth in the enclosed proposed settlement agreement.

If the proposed settlement agreement meets with your approval, please sign and date page four (4) in the indicated spaces and return the same to my office by mail or email so that it is received by no later than 5:00 P.M. on Monday, June 29, 2020. If I do not receive it by then, this settlement offer automatically expires. I look forward to hearing from you.

Very truly yours,

THRASHER BUSCHMANN & VOELKEL, P.C.

By: Stephen R. Donham, Esq.

cc: Oak Hall Homeowners Association, Inc. (c/o Brian Kavanaugh via email)

PRACTICAL ADVICE. PERSONAL ATTENTION.

SETTLEMENT AGREEMENT

This SETTLEMENT AGREEMENT ("Agreement") is made by and between Oak Hall Homeowners' Association, Inc. ("the Association"), an Indiana nonprofit corporation, on the one hand, and Robert M. Taylor and Julia Taylor (collectively "the Owners"), on the other hand, effective this ____ day of June, 2020. The Association and the Owners are collectively referred to as "the Parties" and individually as a "Party" herein.

WHEREAS, the Association manages the affairs of the residential subdivision known as Oak Hall, located in the City of Fishers, Indiana; and,

WHEREAS, Robert M. Taylor is the title owner of record of the real estate commonly known as 11865 Loudon Place, Fishers, IN 46037 ("Lot"), and the Owners assert that they are the sole owners of the Lot; and,

WHEREAS, on or around May 5, 2020, the Owners installed an above-ground pool in public view on their Lot ("the Pool") with the intent to utilize the pool only through the Summer of 2020 (*i.e.*, up to and including September 22, 2020) due in part to their concerns with COVID-19; and,

WHEREAS, upon being informed of the Pool's installation and presence, the Association has alleged that the Pool is in violation of the Association's governing documents and specifically: (i) Article X, Section 6 of the *Declaration of Covenants, Conditions and Restrictions for Oak Hall* ("Declaration") which prohibits "above-ground swimming pools"; and (ii) Paragraph 10 of the *Architectural and Landscape Design Standards* ("Guidelines"), which sets forth restrictions on the size, location, and type of permitted portable and inflatable wading pools; and,

WHEREAS, the Taylors dispute that the Pool is in violation of the Declaration and/or the Guidelines; and,

WHEREAS, the Parties desire amicably and equitably to resolve the foregoing dispute without admitting any liability solely to avoid any further expense, inconvenience, and uncertainty between them; and,

IT IS THEREFORE AGREED by the Parties, for and in consideration of every benefit contained herein the sufficiency of which each Party hereby confirms, as follows:

A. **Recitals.** The recitals hereinabove stated, the Declaration, and the Guidelines are each part of this Agreement and incorporated herein by this reference.

B. **Consideration.** In consideration for the promises stated herein, the Parties agree as follows:

- i. From the effective date of this Agreement up to and including September 22, 2020, the Taylors are permitted by the Association to maintain their Pool in public view on the Lot so long as it: (a) is never inflated above twenty-

four inches (24") in height measured from the ground (and not the top of the grass) upward to the top of the Pool; (b) is never connected to any filter during the foregoing timeframe; and (c) is kept only in the Lot's backyard or otherwise out of public view.

- ii. The Owners also shall maintain the Pool during the foregoing period of time so that it does not become unsightly, unkempt, or fall into a state of disrepair, or otherwise detract from or diminish the aesthetic appearance of the Oak Hall subdivision.
- iii. By no later than 8:00 A.M. on Wednesday, September 23, 2020, the Taylors shall have removed the Pool and all of its components from public view and thereafter refrain from reinstalling the Pool in public view on their Lot or any similar pool in public view on their Lot.
- iv. The Owners, on behalf of themselves, their successors, and assigns, voluntarily and forever release, discharge, and agree to indemnify and hold harmless the Association and its principals, directors, members, officers, employees, agents, property managers, attorneys, and all other persons or entities acting for them from any and all claims, demands, attorneys' fees, costs, liens, or causes of action arising out of and/or in any way related to the Pool and/or the Parties' communications regarding the Pool, whether occurring in the past or which may occur in the future.
- v. The Association is entitled to injunctive relief if the Owners do not comply with any term of this Agreement. The Owners agree that no affirmative defense, including without limitation, acquiescence, waiver, estoppel, laches, or selective enforcement excuses them from complying with any aspect of this Agreement.
- vi. Nothing herein shall be construed as modifying any of the terms of the Association's governing documents, including without limitation the Declaration and the Guidelines.

C. **Attorneys' Fees.** Each Party shall be responsible for their own attorneys' fees, costs, and expenses in connection with the preparation and signing of this Agreement, which is made pursuant to Indiana Code § 32-25.5-5-14. In the event of a breach of this Agreement, the non-breaching Party in any litigation shall be entitled to the recovery of their reasonable attorneys' fees, litigation expenses, and costs from any breaching Party.

D. **Warranty of Authorization.** The Parties warrant that they have the power and authority, and the legal right, to make, deliver, and perform under this Agreement, and have taken all necessary actions to authorize execution, delivery, and performance under this Agreement. This Agreement constitutes legal, valid, and binding obligations of the Parties, enforceable against them in accordance with its terms. The Parties represent and acknowledge that they have consulted

with, or had the opportunity to consult with, an attorney prior to executing this Agreement.

E. **No Presumption Against Any Party.** Neither this Agreement nor any provision in this Agreement shall be construed for or against any Party because this Agreement as a whole, or any provisions thereof, was requested or drafted by such Party. Neither this Agreement nor any provision thereof nor evidence of any negotiations in connection with it or them shall be offered or received in evidence or used in any way in any action or proceeding between the Parties, except to enforce the terms and provisions hereof.

F. **Governing Law/Forum.** This Agreement shall be governed by, construed, and enforced in accordance with the substantive laws of the State of Indiana without regard to conflict of laws.

G. **Further Assurances; Cooperation.** The Parties agree to reasonably cooperate with each other concerning the execution and implementation of this Agreement and to execute such other and further documents that may be required to implement this Agreement. From and after the date hereof, each of the Parties shall at the request of the other Party and without further consideration, do, execute, and deliver, or cause to be done, executed, and delivered, all such further acts, things, documents, and instruments as may be reasonably requested or required to give full effect to and to evidence the transactions and promises provided for in this Agreement. Any person requesting execution of any document hereunder must prepare the same.

H. **Entire Agreement.** This Agreement constitutes the entire, complete, and integrated agreement made between the Parties. This Agreement is not subject to any conditions not expressly provided for herein, and there are no prior or contemporaneous written or oral agreements by the Parties that can in any way modify, alter, waive, or estop the express terms of this Agreement. This Agreement may not be modified, altered, amended, waived, or changed in any way, except in a writing signed by the Parties.

I. **Severability.** Invalidity of any one of the provisions of this Agreement by judgment or Court order shall in no way affect any other provision, which shall remain in full force and effect.

J. **Execution in Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed to be one and the same instrument. A photocopy, facsimile, or email copy of a signature by any Party on the Agreement shall be considered the same as an original signature, and such signed document shall be treated as a duplicate original of the Agreement.

K. **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the Parties' respective successors, heirs, and assigns, and shall run with the Lot.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement, intending to be legally bound hereby, as of the date first written above.

“The Association”

Signature:_____

Printed: _____

Title: President

Date:_____

“The Owners”

Signature:_____

Printed: Robert Taylor

Date:_____

Signature:_____

Printed: Julia Taylor

Date:_____