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Current and Potential Owners of SCC #11
28 Donald Street
Barrie, Ontario

Dear Current or Potential Owners of SCC #11

RE: Occupancy Provision in the Declaration – Rental of Units

I am the solicitor for SCC #11 and have been asked to write a letter to all current and potential owners advising them of the provisions in the Declaration that are registered on title to each unit, the current Rules and the owner's obligations under the *Condominium Act, 1998* as amended.

Article IX, section 1 of the Declaration stipulates that the occupation and use of the units shall be in accordance with the restriction that each unit shall be occupied only as a residence for a single family and for no other purpose. Section 1 of the current Rules also stipulates that each unit should only be occupied as a single family unit and for no other purpose. Article IX, section 2 of the Declaration stipulates that no unit shall be occupied by anyone whose occupancy shall give rise to the cancellation or the threatened cancellation of any policy of insurance required to be maintained by SCC #11.

As such, allowing your unit to be rented to multiple tenants who are not part of a family or similar social unit will be a violation of the Declaration and your obligations under the *Condominium Act, 1998*. For example, dividing your unit into rooms to rent individually or dividing your unit into 2 or more sub units thus allowing you to rent a portion of your unit to one individual/family and another portion to a different individual/family is a violation of the Declaration and will require SCC #11 to take legal action if compliance is not obtained. However, renting the entire unit to a single person or family is not in violation of the Declaration as you are in essence renting the unit as a single family residence.

The Ontario Court of Appeal has several times upheld a single family provision in a condominium Declaration similar to the one found in SCC #11's Declaration. In Nipissing Condominium Corporation No. 4. v. Kilfoyl, the owner was trying to rent the unit to multiple unrelated students who attended the nearby university. The Ontario

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Court of Appeal upheld the condominium's right to enforce its Declaration and the students, in this case, were required to move out of the unit. The owner, under s. 134 of the *Condominium Act, 1998*, was required to pay all the condominium's legal fees and disbursements incurred in order to obtain the court order and is no longer permitted to rent their unit to multiple unrelated persons. If all legal fees are not paid by the owner, the condominium corporation can register a lien against the unit and commence power of sale proceedings. The owner may also have some legal liabilities to their tenants who were forced to move out before the end of their lease. The Court of Appeal upheld the Barrie Superior Court decision that the occupation of the unit by multiple unrelated tenants was a breach of the Declaration. The Court of Appeal also held that this type of restriction was not in violation of the Human Rights Code.

In 2012, the Court of Appeal once again upheld a single family provision in Chan v. Toronto Standard Condominium Corporation No 1834. The Court of Appeal upheld the lower court decision which followed the reasons and findings in the Kilfoyl decision.

Section 7(4)(b) of the *Condominium Act, 1998* permits Declarations to contain restrictions or conditions on the occupation and use of units. All owners, under s. 119 of the *Condominium Act, 1998* must comply with the Declaration, bylaws, rules of SCC #11 and the *Condominium Act, 1998* itself and ensure that their tenants also comply.

When you purchase your unit, you agree to abide by the Declaration, Bylaw, Rules and the current condominium legislation. The Board of Directors of SCC #11 have a legal obligation under s. 17(3) of the *Condominium Act, 1998* to ensure that all owners and tenants comply with the condominium legislation, Declaration, Bylaws and Rules of SCC #11.

As the owner of the unit, you have a responsibility under Article XVII, section 1 of the Declaration to make sure that all residents and tenants of your unit comply with the *Condominium Act, 1998*, the Declaration, the By-Laws and the Rules of SCC #11.

The Board of Directors wishes to bring these obligations to the attention of all current and potential owners so as to avoid the necessity of commencing a legal action to obtain a s. 134 compliance order against any owner and/or tenant who does not comply with the occupancy restrictions in the Declaration and their obligations under the *Condominium Act, 1998*. Section 134(5) of the *Condominium Act, 1998* permits SCC #11 to add to the common expenses of the unit all costs incurred to obtain the compliance order.

The Board of Directors also wishes to bring to the attention of all owners the requirement under s. 83 of the *Condominium Act, 1998*. This section requires any owner who leases their unit to provide a copy of the lease or the completed prescribed form to the corporation within 30 days of entering into a lease or a renewal of a lease. You must also provide the tenants with a copy of the Declaration, Bylaws and Rules of SCC #11. Article XVII, section 2 of the Declaration also requires the tenants to sign an undertaking that they will comply with the Declaration, Bylaws, Rules and any

legislation. If you are leasing your unit and you have not complied with s. 83 or Article XVII, s. 2 please provide a copy of the lease or prescribed form and the signed undertaking to SCC #11 on or before March 15, 2014.

You can obtain a free copy of the Condominium Act, 1998 online at www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_98c19_e.htm. If you require a blank undertaking form to be completed by your tenants, please contact SCC #11 directly. You should have received copies of the Declaration, Bylaws and Rules with your status certificate when you purchased your unit. Any amendments to the bylaws and rules since your purchase would have been sent to you as well.

SCC #11 trusts that all owners will comply with their obligations in order to avoid unnecessary expenses for the corporation as a whole and for individual owners personally.

Yours truly,

A handwritten signature in black ink, appearing to be "Sonja Hodis", enclosed within a hand-drawn oval shape.

Sonja Hodis