

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") entered into this 3rd day of March 2023, by and between the following, sometimes referred to hereafter collectively as the "Parties," and individually as "Party":

CHRISTOPHER R. BURKE and MELISSA R. WEAVER-BURKE,
sometimes referred to hereafter as the "Claimants"

- and -

HIGHLAND GROVE ESTATES HOMEOWNERS ASSOCIATION, INC.,
sometimes referred to hereafter as "Respondent."

Whereas, the Parties are each represented by counsel, recognize their respective rights and obligations, and are desirous of settling – fully and finally – any and all claims, disputes, counterclaims, cross-claims, and third-party claims (collectively referred to hereafter as "Claims") which were or could have been brought related to Claimants' Demand Letters, attached hereto as Composite Exhibit "A";

Whereas, prior to signing this Agreement, each Party had an opportunity to and in fact has had counsel review this Agreement and explain that Party's rights and obligations under, and the legal effect of, this Agreement;

Whereas, the Parties have signed this Agreement of their own free will and volition, with full recognition and understanding of their respective rights and obligations under, and the legal effect of, this Agreement;

Now Therefore, for and in consideration of the following covenants and agreements, or other valuable consideration, the receipt and sufficiency of which are hereby acknowledged and conclusively established, the Parties covenant and agree as follows:

1. **Recitals:** The Parties agree that the foregoing recitals are true and correct, and are fully incorporated into the substantive provisions of this Agreement.

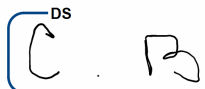
2. **Nothing in this Agreement to Act as Admission:** Neither this Agreement nor anything in it shall act as or constitute an admission by the Parties that any Party, or any of the Parties past or present officers, directors, shareholders, members, agents, employees, independent contractors, agents, accountants or attorneys, committed any

Page 1 of 6

CHRISTOPHER R.
BURKE

MELISSA R. WEAVER-
BURKE

HIGHLAND GROVE
ESTATES HOMEOWNERS
ASSOCIATION, INC.

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Initials



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*CHRISTOPHER R. BURKE and MELISSA R. WEAVER-BURKE v. HIGHLAND GROVE
ESTATES HOMEOWNERS ASSOCIATION, INC.*

wrongful act, or violated or breached the terms of any agreement or duty owed, whether
statutory or otherwise.

3. Settlement of Demand:

In consideration for signing this Agreement and compliance with the promises made
herein, the Parties agree to the following:

A. Highland Groves Estates Homeowner's Association, Inc. and Claimants
acknowledge and agree that the "roofs" of the Homes in Highland Grove Estates
(including the roof covering, and all other roof components (collectively referred to
herein as "Roofs")) are "Common Structural Elements" as the term "Common
Structural Elements" is used in the Declaration of Covenants, Restrictions and
Easements for Highland Grove Estates, as amended from time to time (the
"Declaration").

B. Highland Groves Estates Homeowner's Association's Insurance Carrier will pay the
entirety of the mediator fees for the March 3, 2023 mediation in connection with the
Demand for Mediation. See Composite Exhibit "A."

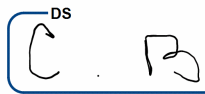
4. Mutual Limited Release: Unless otherwise stated in this Agreement, the
Parties hereby remise, release, acquit, satisfy, and forever discharge each other including
the Parties' successors and assigns, and any and all past and present officers, directors,
agents, attorneys, accountants, insurers, reinsurers, servants, employees, shareholders,
members, and partners, of and from any and all, and all manner of, claims, actions,
causes of action, suits, debts, sums of money, accounts, reckonings, contracts,
controversies, agreements, promises, damages, and demands whatsoever, and/or
attorneys' fees in law or in equity which any of the Parties ever had, as of this date, as it
relates to the issues resolved herein with regard to Highland Groves Estates
Homeowner's Association, Inc. and Claimants' acknowledgement and agreement that
"Roofs" are "Common Structural Elements" as the term "Common Structural Elements" is
used in the Declaration of Covenants, Restrictions and Easements for Highland Grove
Estates, as amended from time to time. Unless otherwise stated in this Agreement, this
paragraph does not create a release of the Parties from enforcement of the Declaration,
as may be amended from time to time, and in accordance with the Parties'
acknowledgment and agreement set forth in Paragraph 3.A. herein, or from any claim,
liability, right, cause of action or demand that may arise after the date of this Agreement.

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CHRISTOPHER R.
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MELISSA R. WEAVER-
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HIGHLAND GROVE
ESTATES HOMEOWNERS
ASSOCIATION, INC.

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CHRISTOPHER R. BURKE and MELISSA R. WEAVER-BURKE v. HIGHLAND GROVE ESTATES HOMEOWNERS ASSOCIATION, INC.

Unless otherwise stated in this Agreement, for the avoidance of doubt, this Release includes the Claimants' release of any and all claims related to and/or arising out of the Demand Letters, attached hereto as Composite Exhibit "A."

5. Governing Law, Venue and Personal Jurisdiction: This Agreement shall be governed by, and construed in accordance with, the laws of the State of Florida applicable to contracts executed in and to be performed in that state and without regard to any applicable conflicts of law. In any action between or among the Parties hereto arising out of or relating to this Agreement or any of the transactions contemplated by this Agreement, each Party irrevocably and unconditionally consents and submits to the exclusive jurisdiction and venue of the Circuit Court of the Fifteenth Judicial Circuit in and for Palm Beach County.

6. Enforcement Action: In the event any Party brings an action to enforce any of the provisions of this Agreement, the Party prevailing in any such action shall be entitled to recover, and the losing Party shall be obligated to pay, the reasonable attorneys' fees and costs incurred in such proceeding, including attorneys' fees and costs incurred in any appellate proceedings. **THE PARTIES AGREE TO WAIVE ANY RIGHT TO TRIAL BY JURY IN ANY ENFORCEMENT PROCEEDING, ACTION, OR LITIGATION ARISING OUT OF, DIRECTLY OR INDIRECTLY, THIS AGREEMENT.**

7. Joint Work Product: This Agreement shall be deemed the joint work product of the Parties and their respective counsel, if any, and all Parties shall be considered the drafters of this Agreement. Prior to signing this Agreement, each Party had an opportunity to have counsel review this Agreement and explain that Party's rights and obligations under, and the legal effect of, this Agreement. Any rule of construction to the effect that any ambiguities are to be construed against the drafting party shall not be applicable in any interpretation of this Agreement.

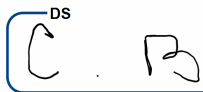
8. Severability: If any provision of this Agreement is contrary to, prohibited by, or deemed invalid under applicable law or regulation, such provision shall be inapplicable and deemed omitted to the extent so contrary, prohibited or invalid, but the remainder of this Agreement shall not be invalidated thereby and shall be given full force and effect so far as possible. If any provision of this Agreement may be construed in two or more ways, one of which would render the provision invalid or otherwise voidable or unenforceable and another of which would render the provision valid and enforceable, such provision shall have the meaning which renders it valid and enforceable.

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CHRISTOPHER R.
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ESTATES HOMEOWNERS
ASSOCIATION, INC.

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CHRISTOPHER R. BURKE and MELISSA R. WEAVER-BURKE v. HIGHLAND GROVE ESTATES HOMEOWNERS ASSOCIATION, INC.

9. **Effective Date and Location of Agreement:** This Agreement may be executed in several counterparts; however, each of said counterparts shall be deemed an original and said counterparts shall constitute but one and the same instrument which may be sufficiently evidenced by one counterpart. Facsimile and PDF signatures are acceptable to all Parties and deemed admissible as evidence notwithstanding any authentication requirements of the applicable rules of evidence. While this Agreement may be executed on various dates and in different locations, the effective date of this Agreement shall be the date on which the final party executes the Agreement, and this Agreement will be treated as having been made and executed in Palm Beach County, Florida.

10. **Entire Agreement:** This Agreement contains the full and complete agreement between and among the Parties, and there are no oral or implied agreements or understandings not specifically set forth herein. No other Party, or agent or attorney of any other Party, or any person, firm, corporation or any other entity has made any promise, representation, or warranty, whatsoever, express, implied, or statutory, not contained herein, concerning the subject matter hereof, to induce the execution of this Agreement. No signatory has executed this Agreement in reliance on any promise, representation, or warranty not contained herein. No modifications of this Agreement may be made except by means of a written agreement signed by each of the Parties. Finally, the waiver of any breach of this Agreement by any Party shall not be a waiver of any other subsequent or prior breach.

11. **Signatures:** Each Party agrees that once he or she has signed this Agreement, his or her signature shall remain binding and effective and that his or her assent, as evidenced by the signature, may not be withdrawn or revoked.

12. **Attorney Consultation, and Knowing and Voluntary Execution:** The Parties acknowledge that prior to executing this Agreement, each Party has consulted with an attorney(s) before signing this Agreement. Further, the Parties acknowledge that they entered into and signed this Agreement knowingly, voluntarily, freely, of his own volition and with such consultation with counsel as he deemed appropriate.

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CHRISTOPHER R.
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ASSOCIATION, INC.


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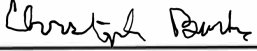

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**CHRISTOPHER R. BURKE and MELISSA R. WEAVER-BURKE v. HIGHLAND GROVE
ESTATES HOMEOWNERS ASSOCIATION, INC.**

The undersigned hereby declare that they have read this Agreement, consisting of
six (6) pages, and fully understand and freely agree to all of the terms set forth in this
Agreement.

CHRISTOPHER R. BURKE

DocuSigned by:



C73E50796D3748F...

3/3/2023

Date:

MELISSA R. WEAVER-BURKE



Date:

3.3.23

HIGHLAND GROVE ESTATES HOMEOWNERS ASSOCIATION, INC.



TITLE:

PRESIDENT

Treasurer

Date:

MARCH 3, 2023 3/03/23

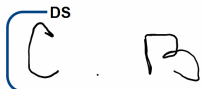
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CHRISTOPHER R.
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ASSOCIATION, INC.



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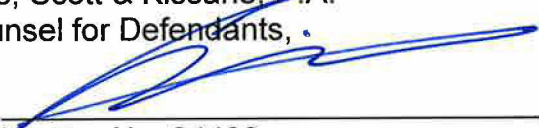


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*CHRISTOPHER R. BURKE and MELISSA R. WEAVER-BURKE v. HIGHLAND GROVE
ESTATES HOMEOWNERS ASSOCIATION, INC.*

SIGNED BY COUNSEL PURSUANT TO FLA. R. CIV. P. 1.730

Craig Minko, Esq.
Cole, Scott & Kissane, P.A.
Counsel for Defendants,

By: 
Florida Bar No. 84499
Date: 3/3/23

Steven Rubin, Esq.
Counsel for Plaintiffs.

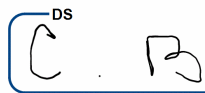
By: 
Florida Bar No. 309223
Date: 3/3/23

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CHRISTOPHER R.
BURKE

MELISSA R. WEAVER-
BURKE

HIGHLAND GROVE
ESTATES HOMEOWNERS
ASSOCIATION, INC.

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Composite Exhibit "A"

DS
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STEVEN D. RUBIN
ATTORNEY AT LAW
SUITE 440
980 N. FEDERAL HIGHWAY
BOCA RATON, FLORIDA 33432

FLORIDA BAR BOARD CERTIFIED SPECIALIST:

- REAL ESTATE LAW
- CONDOMINIUM AND PLANNED DEVELOPMENT LAW

TELEPHONE (561) 391-7992
FAX (561) 270-0478
steven@rubinlawflorida.com
www.rubinlawflorida.com

November 18, 2022

Mark Friedman, Esquire
Becker & Poliakoff, P.A.
625 N Flagler Dr. Ste 700
West Palm Beach, FL 33401-4025
mfriedman@beckerlawyers.com

Re: Highland Grove Estates Homeowner's Association, Inc. ("Association")

Dear Mr. Friedman:

This office has been retained to represent Mr. and Mrs. Christopher Burke, the owners of 1840 Highland Grove Drive, Delray Beach, Florida 33445. As you may know, the Association recently adopted its Annual Budget. Included in line item 64 in the amount of \$2,730.00 is a budgeted expense for roof inspection and up to ten (10) roof tiles for each owner's roof. Line 63 of the adopted Annual Budget is a line item for roof replacement in the amount of \$490,000.00 (the roof reserve account). Based on the discussion at the Association's recent Annual Meeting, it appeared that the Board of Directors of the Association does not recognize that the Association is obligated to maintain, repair, and replace the roofs of each Home or that the roofs are Common Structural Elements. It appeared that the Board of Directors was under the impression that the Association's responsibility is limited to only replacing up to ten (10) roof tiles on each roof as reflected in line item 64 of the Budget. Mr. and Mrs. Burke would like confirmation from the Association, which they have been requesting for about a year now, that it acknowledges that it is responsible for the maintenance, repair, and replacement of the entire roof of their Home and all other Homes in the community, pursuant to Article II, Section (6), Article VIII, Section (1), Article VI Section (1), and Article VIII, Section (2), of the Declaration of Covenants and Restrictions for Highland Grove Estates.

Moreover, although the Association created the roof replacement reserve account, the Annual Budget has no line item for a current contribution to roof reserves. In accordance with Florida Statute Section 720.303(6)(f), after one or more reserve accounts are established, the membership of the Association, upon majority vote at a meeting which a quorum is present, may provide for no reserves or less reserves than are required by this section. No such vote was taken at the 2022 Annual Meeting.

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Mark Friedman, Esquire
November 18, 2022
Page 2

In addition to the Annual Budget deficiencies noted above, the Association did not follow the requirements of its Governing Documents in connection with the election of Directors. This is not the first time the Association's Board has chosen to conduct what it calls an "informal election". First and foremost, although the Notice of Annual Meeting stated that the Board of Directors decided at a previous Board Meeting to reduce the number of Board Members from five (5) to three (3) members, there is no such record of a vote by the Board of Directors. Moreover, at the Association's Annual Election, there were no ballots counted, candidate forms, proxies, or election committee established. In addition, the Association approved the minutes of the 2021 Annual Meeting, while the two (2) owners present objected, without providing the membership with a copy of the proposed 2021 minutes. Jamie, the Property Manager, emailed the 2021 Annual Minutes to the owners for the first time after the Meeting was adjourned. The point the Burkes are once again making is that the Association cannot insist on requiring homeowners, including the Burkes, to comply with the Association's Governing Documents if the Association itself does not comply with them.

Please confirm within the next ten (10) days by reply letter that the Association acknowledges that it is responsible, at its sole cost and expense, for the maintenance, repair, and replacement of roof of the Homes, and not only for replacing up to ten (10) tiles on each roof.

Thank you.

Very truly yours,



Steven D. Rubin
SDR/dam

cc: Mr. and Mrs. Chris Burke

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Mark D. Friedman
Shareholder
Board Certified Specialist, Condominium and
Planned Development Law
Phone: 561.820.2868 Fax: 561.832.8987
mfriedman@beckerlawyers.com

Becker

Becker & Poliakoff
625 N. Flagler Drive
7th Floor
West Palm Beach, FL 33401

December 8, 2022

**SENT VIA E-MAIL - steven@rubinlawflorida.com
AND VIA CERTIFIED MAIL # 9414 8149 0237 0668 0329 53
RETURN RECEIPT REQUESTED**

Steven D. Rubin, Esq.
980 N. Federal Highway
Suite 440
Boca Raton, FL 33432

**Re: Highland Grove Estates Homeowners Association, Inc.
November 18, 2022 Letter / Roofs**

Dear Mr. Rubin:

We are in receipt of your letter of November 18, 2022.

We will address the demand made in your letter.

Your demand: "Please confirm within the next ten (10) days by reply letter that the Association acknowledge that it is responsible at its sole cost and expense, for the maintenance, repair, and replacement of roof (sic) of the Homes, and not only for replacing up to ten (10) tiles on each roof."

Answer:

You are trying to oversimplify a matter that was not clearly stated in the Declaration of Covenants, Restrictions and Easements. You may have overlooked a 2006 amendment on costs when you did your due diligence before writing to me. Regarding the roof issue, you do not cite to Article VIII, Section 2.A, as amended on June 22, 2006, by the Developer's attorney, which provides as follows (edits left in so you can see the intentional shift in responsibility by the drafter):



Steven D. Rubin, Esq.
 December 8, 2022
 Page 2

Whenever the ~~maintenance~~, repair and replacement of any items which an ~~Owner~~ the Association is obligated to maintain, repair or replace ~~at his/her own expense~~ (such as the Common Structural Elements contained within an Owner's Home) is occasioned by any loss or damage which may be covered by any insurance which is required to be maintained in force by the Association ~~an Owner~~, as provided in Article XI of this Declaration, the proceeds of the insurance received by ~~the Association~~ such Owner (and payable to such Owner and the Owner's mortgagee, if any) shall be given by such Owner to the Association to be used by the Association for the purpose of ~~making~~ performing such ~~maintenance~~, repair or replacement. Any insurance proceeds remaining after the Association has restored the Common Structural Element may be used by the Owner to restore the interior of the Owner's Home, except that Notwithstanding the foregoing, the Owner shall be, ~~in said instance,~~ required to pay to the Association such portion of the costs of such ~~maintenance~~, repair and replacement as shall, by reason of applicability of any deductibility provision of such insurance or otherwise, reduce the amount of the insurance proceeds applicable to such ~~maintenance~~, repair or replacement.

When there is an event which damages the roofs, the unit owner's insurance pays for the cost of repairs and, pursuant to Article XIII.F, the "repairs shall be performed by the Association" in the manner outlined in Article X.

Article VIII, Section 2.G, also requires the owner to keep all portions of his/her home insured for full replacement value, including the Common Structural Elements contained within the Owner's Home.

Article I, Section 27, and Article VI, Section 1, provide that the budget ("Operating Expenses") include the cost of *maintaining or repairing* the Common Structural Elements.

Article II, Section 6, paragraph 3, provides: "In the event any Common Structural Element or part thereof located within a Home require maintenance, repair or replacement and the necessity of such maintenance, repair or replacement was not due to any act or failure to act on the part of the Owner of the Home in question and the cost of such maintenance, repair or replacement would result in an inequitable and unfair burden upon any particular Home, the cost of such maintenance repair or replacement shall be an Operating Expense share by all of the Homes."

Article VIII.G provides that the Association shall *maintain* the Common Structural Elements.

Steven D. Rubin, Esq.
December 8, 2022
Page 3

As you can see, we cannot provide the answer you seek that in all circumstances the Association will solely pay for the maintenance, repair, and replacement of the roofs. The Declaration seems clear that there are various situations where the Association would not pay for the maintenance, repair and replacement of the roofs and the cost would shift to the owner and/or his/her insurance.

I trust the foregoing has been responsive to your correspondence.

Sincerely,



Mark D. Friedman
For the Firm

MDF/ebd

cc: Board of Directors, Highland Grove Estates Homeowners Association, Inc. (via e-mail)

DS
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RB PGP SN

STEVEN D. RUBIN
ATTORNEY AT LAW
SUITE 440
980 N. FEDERAL HIGHWAY
BOCA RATON, FLORIDA 33432

FLORIDA BAR BOARD CERTIFIED SPECIALIST:

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- CONDOMINIUM AND PLANNED DEVELOPMENT LAW

TELEPHONE (561) 391-7992
FAX (561) 270-0478
steven@rubinlawflorida.com
www.rubinlawflorida.com

CERTIFIED MAIL RETURN RECEIPT REQUESTED
and U.S. MAIL

December 16, 2022

Ms. Robyn Barillari, President,
Highland Grove Estates Homeowners
Association, Inc.
C/O JSB Property Management, Inc
PO Box 50373
Lighthouse Point, FL 33074

KRAVIT LAW, P.A., Registered Agent
Highland Grove Estates Homeowners
Association, Inc.
7000 W. Palmetto Park Road
#210
Boca Raton, FL 33433

Re: 1840 Highland Grove Drive
Delray Beach, FL 33445

Dear Ms. Barillari:

The undersigned is in receipt of Mr. Friedman's letter dated December 8, 2022, and I have discussed the letter with my clients. Mr. and Mrs. Burke disagree with the recitation of facts and the conclusions made in the letter and to the extent necessary, the allegations are denied.

The alleged aggrieved parties, Mr. and Mrs. Chris Burke, represented by this office, hereby demand that Highland Grove Estates Homeowners Association, Inc., as the responding party, engage in mandatory pre-suit mediation in connection with the following dispute, which by Statute is of a type that is subject to pre-suit mediation: See attached Exhibit "A".

Pursuant to F. S. § 720.311, this demand to resolve the dispute through pre-suit mediation is required before a lawsuit can be filed concerning the dispute. Pursuant to the Statute, the parties are required to engage in pre-suit mediation with a neutral third-party mediator in order to attempt to resolve this dispute without court action, and the aggrieved party demands that you likewise agree to this process. If you fail to participate in the mediation process, suit may be brought against you without further warning.

The process of mediation involves a supervised negotiation process in which a trained, neutral third-party mediator meets with both parties and assists them in exploring possible opportunities for resolving part or all of the dispute. By agreeing to participate in pre-suit mediation, you are not bound in any way to change your position. Furthermore, the mediator has no authority to make any decisions in this matter or to determine who is right or wrong and merely acts as a facilitator to

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Highland Grove Estates Homeowners
Association, Inc.
December 16, 2022
Page 2 of 3 pages

ensure that each party understands the position of the other party and that all options for reasonable settlement are fully explored.

If an agreement is reached, it shall be reduced to writing and becomes a binding a enforceable commitment of the parties. A resolution of one or more disputes in this fashion avoids the need to litigate these issues in court. The failure to reach an agreement, or the failure of a party to participate in the process, results in the mediator declaring an impasse in the mediation, after which the aggrieved party may proceed to court on all outstanding unsettled disputes. If you have failed or refused to participate in the entire mediation process, you will not be entitled to recover attorney's fees, even if you prevail.

The aggrieved party has selected and hereby lists five (5) certified mediators who we believe to be neutral and qualified to mediate the dispute. You have the right to select any one of these mediators. The fact that one party may be familiar with one or more of the listed mediators does not mean that the mediator cannot act as a neutral and impartial facilitator. Any mediator who cannot act in this capacity is required ethically to decline to accept engagement. The mediators that we suggest and their current hourly rates, are as follows:

See attached Exhibit "B"

You may contact the offices of these mediators to confirm that the listed mediators will be neutral and will not show any favoritism toward either party. The Florida Supreme Court can provide you a list of certified mediators.

Unless otherwise agreed by the parties, F. S. § 720.311 (2)(b), requires that the parties share the costs of pre-suit mediation equally, including the fee charges by the mediator. An average mediation may require three (3) to four (4) hours of the mediator's time, including some preparation time, and the parties would need to share equally the mediator's fees as well as their own attorney's fees if they choose to employ an attorney in connection with the mediation. However, use of an attorney is not required and is at the option of each party. The mediators may require the advance payment or all of the anticipated fees. The aggrieved party hereby agrees to pay or prepay one-half (1/2) of the mediator's estimated fees and to forward this amount or other reasonable advance deposits as the mediator requires for this purpose. Any funds deposited will be returned to you if these are in excess of your share of the fees incurred.

To begin your participation in pre-suit mediation to try to resolve the dispute and avoid further legal action, please sign below and clearly indicate which mediator is acceptable to you. We will then ask the mediator to schedule a mutually convenient time and place for the mediation conference to be held. The mediation conference must be held within ninety (90) days of this date, unless extended by mutual written agreement. In the event that you fail to respond within twenty (20) days from the

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Highland Grove Estates Homeowners
Association, Inc.
December 16, 2022
Page 2 of 3 pages

date of this letter, or if you fail to agree to at least one of the mediators that we have suggested or to pay or prepay to the mediator one-half (1/2) of the costs involved, the aggrieved party will be authorized to proceed with the filing of a lawsuit against you without further notice and may seek an award of attorney's fees or costs incurred in an attempt to obtain mediation.

Therefore, please give this matter your immediate attention. By law, your response (see attached Exhibit "C" for the format of response) must be mailed by certified mail, return receipt requested and by first-class mail to the address shown on this demand.

Steven D. Rubin, Esq.
980 North Federal Highway Suite 440
Boca Raton, Florida 33432

Thank you for attending to this matter.

Very truly yours,

Steven D. Rubin
SDR/dam
enclosures

cc: Mark Friedman, Esquire
mfriedman@beckerlawyers.com

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EXHIBIT "A"
(DISPUTE)

Re: 1840 Highland Grove Drive
Delray Beach, FL 33445

The Association has previously been notified by the Mr. and Mrs. Burke that it is in violation of the governing documents of the Association because Highland Grove Estates Homeowners Association, Inc. ("Association") failure to comply with its duties under the Declaration of Covenants and Restrictions for Highland Grove Estates ("Declaration"), and its Articles and Bylaws, and its Directors' failure to comply with their fiduciary duties owed to the members of the Association resulting from the same non compliance. Specifically, the Association has violated the governing documents of the Association and Florida Homeowners Association Act as follows:

1. Article II, Section (6), Article VIII, Section (1), Article VI Section (1), and Article VIII, Section (2), of the Declaration requires the Association the Association is obligated to maintain, repair, and replace the roofs of each Home or that the roofs are Common Structural Elements. The Association recently adopted its Annual Budget. Included in line item 64 in the amount of \$2,730.00 is a budgeted expense for roof inspection and up to ten (10) roof tiles for each owner's roof. Line 63 of the adopted Annual Budget is a line item for roof replacement in the amount of \$490,000.00 (the roof reserve account). Based on the discussion at the Association's recent Annual Meeting, it appeared that the Board of Directors of the Association does not recognize that the Association is obligated to maintain, repair, and replace the roofs of each Home or that the roofs are Common Structural Elements. It appeared that the Board of Directors was under the impression that the Association's responsibility is limited to only replacing up to ten (10) roof tiles on each roof as reflected in line item 64 of the Budget.

Moreover, although the Association created the roof replacement reserve account, the Annual Budget has no line item for a current contribution to roof reserves. In accordance with Florida Statute Section 720.303(6)(f), after one or more reserve accounts are established, the membership of the Association, upon majority vote at a meeting which a quorum is present, may provide for no reserves or less reserves than are required by this section. No such vote was taken at the 2022 Annual Meeting.

Mr. and Mrs. Burke have made demands upon the Association for confirmation from the Association that it acknowledges that it is responsible for maintenance, repair, and replacement of the entire roof of their Home and all other Homes in the community.

The Burkes seek a declaration of their rights confirming the Association's obligation to maintain, repair, and replace the roofs of the Homes (and other Common Structural Elements) subject to damage caused by casualty which is covered by insurance.

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EXHIBIT "B"
PROSPECTIVE MEDIATORS

James Munsey, Esquire
Matrix Mediation
1655 Palm Beach Lakes Boulevard
Suite 700
West Palm Beach, Florida 33401
\$495.00 an hour/for two parties/two hour minimum
\$595.00 an hour/for three or more parties/two hour minimum
Ph: (561) 340-3500

Amber McMichael
Matrix Mediation
1655 Palm Beach Lakes Boulevard
Suite 700
West Palm Beach, Florida 33401
\$295.00 an hour/for two parties/two hour minimum
\$450.00 an hour/for three or more parties/two hour minimum
Ph: (561) 340-3500

Joseph J. Huss
Krinzman, Huss & Lubetky
110 S.E. 6th Street Suite 1430
Fort Lauderdale, Florida 33301
\$475.00 an hour/two parties/ two hour minimum - charges travel time
Ph. (954) 761-3454

Richard D. Eade
Biscayne Building, Suite 620
19 West Flagler St.
Miami, FL 33130
\$400.00* an hour/two parties/two hour minimum
\$450.00* an hour/three parties/two hour minimum
\$480.00* an hour/four parties/ two hour minimum
Ph. (305) 371-5490
* subject to change after January 1, 2023

Steven A. Mayans
Mayans Mediation & Arbitration
823 North Olive Avenue
West Palm Beach, FL 33401
Tel: (561) 832-9128
Cell: (561) 345-0363
Website: www.mayanslaw.com
\$375.00 an hour/for two parties

DS
RB Pas



EXHIBIT "C"

Homeowners: Christopher R. Burke and Melissa R. Weaver
Association: Highland Grove Estates Homeowners Association, Inc.

RESPONDING PARTIES: YOUR SIGNATURE INDICATES YOUR AGREEMENT TO THAT CHOICE.

AGREEMENT TO MEDIATE

The undersigned hereby agrees to participate in presuit mediation and agrees to attend a mediation conducted by the following mediator or mediators who are listed above as someone who would be acceptable to mediate this dispute.

Acceptable Mediator

I/we further agree to pay or prepay one-half (1/2) of the mediator's fees and to forward such advance deposits as the mediator may require for this purpose.

Highland Grove Estates Homeowners
Association, Inc.

By: _____
Print Name: _____
Title: _____

Date

(Telephone contact information)

DS
RB PWS
MRW
SK

STEVEN D. RUBIN
ATTORNEY AT LAW
SUITE 440
980 N. FEDERAL HIGHWAY
BOCA RATON, FLORIDA 33432

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FAX (561) 270-0478
steven@rubinlawflorida.com
www.rubinlawflorida.com

CERTIFIED MAIL RETURN RECEIPT REQUESTED
and U.S. MAIL

December 29, 2022

Ms. Robyn Barillari, President,
Highland Grove Estates Homeowners
Association, Inc.
C/O JSB Property Management, Inc
PO Box 50373
Lighthouse Point, FL 33074

KRAVIT LAW, P.A., Registered Agent
Highland Grove Estates Homeowners
Association, Inc.
7000 W. Palmetto Park Road
#210
Boca Raton, FL 33433

Re: 1840 Highland Grove Drive
Delray Beach, FL 33445

Dear Ms. Barillari:

The undersigned is in receipt of Mr. Friedman's letter dated December 8, 2022, and I have discussed the letter with my clients. Mr. and Mrs. Burke disagree with the recitation of facts and the conclusions made in the letter and to the extent necessary, the allegations are denied.

The alleged aggrieved parties, Mr. and Mrs. Chris Burke, represented by this office, hereby demand that Highland Grove Estates Homeowners Association, Inc., as the responding party, engage in mandatory pre-suit mediation in connection with the following dispute, which by Statute is of a type that is subject to pre-suit mediation: See attached Exhibit "A".

Pursuant to F. S. § 720.311, this demand to resolve the dispute through pre-suit mediation is required before a lawsuit can be filed concerning the dispute. Pursuant to the Statute, the parties are required to engage in pre-suit mediation with a neutral third-party mediator in order to attempt to resolve this dispute without court action, and the aggrieved party demands that you likewise agree to this process. If you fail to participate in the mediation process, suit may be brought against you without further warning.

The process of mediation involves a supervised negotiation process in which a trained, neutral third-party mediator meets with both parties and assists them in exploring possible opportunities for resolving part or all of the dispute. By agreeing to participate in pre-suit mediation, you are not bound in any way to change your position. Furthermore, the mediator has no authority to make any decisions in this matter or to determine who is right or wrong and merely acts as a facilitator to

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Highland Grove Estates Homeowners
Association, Inc.
December 29, 2022
Page 2 of 3 pages

ensure that each party understands the position of the other party and that all options for reasonable settlement are fully explored.

If an agreement is reached, it shall be reduced to writing and becomes a binding and enforceable commitment of the parties. A resolution of one or more disputes in this fashion avoids the need to litigate these issues in court. The failure to reach an agreement, or the failure of a party to participate in the process, results in the mediator declaring an impasse in the mediation, after which the aggrieved party may proceed to court on all outstanding unsettled disputes. If you have failed or refused to participate in the entire mediation process, you will not be entitled to recover attorney's fees, even if you prevail.

The aggrieved party has selected and hereby lists five (5) certified mediators who we believe to be neutral and qualified to mediate the dispute. You have the right to select any one of these mediators. The fact that one party may be familiar with one or more of the listed mediators does not mean that the mediator cannot act as a neutral and impartial facilitator. Any mediator who cannot act in this capacity is required ethically to decline to accept engagement. The mediators that we suggest and their current hourly rates, are as follows:

See attached Exhibit "B"

You may contact the offices of these mediators to confirm that the listed mediators will be neutral and will not show any favoritism toward either party. The Florida Supreme Court can provide you a list of certified mediators.

Unless otherwise agreed by the parties, F. S. § 720.311 (2)(b), requires that the parties share the costs of pre-suit mediation equally, including the fee charges by the mediator. An average mediation may require three (3) to four (4) hours of the mediator's time, including some preparation time, and the parties would need to share equally the mediator's fees as well as their own attorney's fees if they choose to employ an attorney in connection with the mediation. However, use of an attorney is not required and is at the option of each party. The mediators may require the advance payment or all of the anticipated fees. The aggrieved party hereby agrees to pay or prepay one-half (1/2) of the mediator's estimated fees and to forward this amount or other reasonable advance deposits as the mediator requires for this purpose. Any funds deposited will be returned to you if these are in excess of your share of the fees incurred.

To begin your participation in pre-suit mediation to try to resolve the dispute and avoid further legal action, please sign below and clearly indicate which mediator is acceptable to you. We will then ask the mediator to schedule a mutually convenient time and place for the mediation conference to be held. The mediation conference must be held within ninety (90) days of this date, unless extended by mutual written agreement. In the event that you fail to respond within twenty (20) days from the

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Highland Grove Estates Homeowners
Association, Inc.
December 29, 2022
Page 2 of 3 pages

date of this letter, or if you fail to agree to at least one of the mediators that we have suggested or to pay or prepay to the mediator one-half (1/2) of the costs involved, the aggrieved party will be authorized to proceed with the filing of a lawsuit against you without further notice and may seek an award of attorney's fees or costs incurred in an attempt to obtain mediation.

Therefore, please give this matter your immediate attention. By law, your response (see attached Exhibit "C" for the format of response) must be mailed by certified mail, return receipt requested and by first-class mail to the address shown on this demand.

Steven D. Rubin, Esq.
980 North Federal Highway Suite 440
Boca Raton, Florida 33432

Thank you for attending to this matter.

Very truly yours,



Steven D. Rubin
SDR/dam
enclosures

cc: Mark Friedman, Esquire
mfriedman@beckerlawyers.com

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C



RB
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EXHIBIT "A"
(DISPUTE)

Re: 1840 Highland Grove Drive
Delray Beach, FL 33445

The Association has previously been notified by the Mr. and Mrs. Burke that it is in violation of the governing documents of the Association because Highland Grove Estates Homeowners Association, Inc. ("Association") failure to comply with its duties under the Declaration of Covenants and Restrictions for Highland Grove Estates ("Declaration"), and its Articles and Bylaws, and its Directors' failure to comply with their fiduciary duties owed to the members of the Association resulting from the same non compliance. Specifically, the Association has violated the governing documents of the Association and Florida Homeowners Association Act as follows:

1. Article II, Section (6), Article VIII, Section (1), Article VI Section (1), and Article VIII, Section (2), of the Declaration requires the Association the Association is obligated to maintain, repair, and replace the roofs of each Home or that the roofs are Common Structural Elements. The Association recently adopted its Annual Budget. Included in line item 64 in the amount of \$2,730.00 is a budgeted expense for roof inspection and up to ten (10) roof tiles for each owner's roof. Line 63 of the adopted Annual Budget is a line item for roof replacement in the amount of \$490,000.00 (the roof reserve account). Based on the discussion at the Association's recent Annual Meeting, it appeared that the Board of Directors of the Association does not recognize that the Association is obligated to maintain, repair, and replace the roofs of each Home or that the roofs are Common Structural Elements. It appeared that the Board of Directors was under the impression that the Association's responsibility is limited to only replacing up to ten (10) roof tiles on each roof as reflected in line item 64 of the Budget.

Moreover, although the Association created the roof replacement reserve account, the Annual Budget has no line item for a current contribution to roof reserves. In accordance with Florida Statute Section 720.303(6)(f), after one or more reserve accounts are established, the membership of the Association, upon majority vote at a meeting which a quorum is present, may provide for no reserves or less reserves than are required by this section. No such vote was taken at the 2022 Annual Meeting.

Mr. and Mrs. Burke have made demands upon the Association for confirmation from the Association that it acknowledges that it is responsible for maintenance, repair, and replacement of the entire roof of their Home and all other Homes in the community.

The Burkes seek a declaration of their rights confirming the Association's obligation to maintain, repair, and replace the roofs of the Homes (and other Common Structural Elements) subject to damage caused by casualty which is covered by insurance.

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BB
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SM

EXHIBIT "B"
PROSPECTIVE MEDIATORS

James Munsey, Esquire
Matrix Mediation
1655 Palm Beach Lakes Boulevard
Suite 700
West Palm Beach, Florida 33401
\$495.00 an hour/for two parties/two hour minimum
\$595.00 an hour/for three or more parties/two hour minimum
Ph: (561) 340-3500

Amber McMichael
Matrix Mediation
1655 Palm Beach Lakes Boulevard
Suite 700
West Palm Beach, Florida 33401
\$295.00 an hour/for two parties/two hour minimum
\$450.00 an hour/for three or more parties/two hour minimum
Ph: (561) 340-3500

Joseph J. Huss
Krinzman, Huss & Lubetky
110 S.E. 6th Street Suite 1430
Fort Lauderdale, Florida 33301
\$475.00 an hour/two parties/ two hour minimum - charges travel time
Ph. (954) 761-3454

Richard D. Eade
Biscayne Building, Suite 620
19 West Flagler St.
Miami, FL 33130
\$400.00* an hour/two parties/two hour minimum
\$450.00* an hour/three parties/two hour minimum
\$480.00* an hour/four parties/ two hour minimum
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West Palm Beach, FL 33401
Tel: (561) 832-9128
Cell: (561) 345-0363
Website: www.mayanslaw.com
\$375.00 an hour/for two parties



Handwritten signatures and initials in blue ink, including a large signature that appears to be 'Munsey' and other initials like 'RB' and 'FAS'.

EXHIBIT "C"

Homeowners: Christopher R. Burke and Melissa R. Weaver
Association: Highland Grove Estates Homeowners Association, Inc.

RESPONDING PARTIES: YOUR SIGNATURE INDICATES YOUR AGREEMENT TO THAT CHOICE.

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Highland Grove Estates Homeowners
Association, Inc.

By: _____
Print Name: _____
Title: _____

Date

(Telephone contact information)

