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Via E-Mail – tom.ablum@fsequity.com

Tom Ablum, President
Ablum, Brown & Co.
Franklin Street Equity Partners Inc.
550 N. Kingsbury Street
Suite 614
Chicago, Illinois 60610

Re: River Bank Lofts Condominium Association
Responsibility for Rooftop Structures

Dear Tom:

On behalf of the Board of Directors, you have asked for our opinion regarding which party (the Association or the individual unit owner) is responsible for the various rooftop structures (sometimes referred to as “pop-ups”), which is a matter of concern with respect to the anticipated capital repairs being done to the condominium building, including the roof.

It is my understanding that the rooftop structures were either pre-existing aspects of the condominium building or were added by the Developer. In all instances, the structures are situated with the “unit” boundaries depicted on the plat of survey for the roof. In some instances, the structure is used for various purposes and in other instances, the structure simply protects the access stairwell from the unit space on the sixth floor to the unit space on the rooftop. These rooftop structures are separate and apart from the “deck” designated as limited common elements on the plat.

For the reasons stated below, it is our opinion that except for the interior surfaces of the walls, ceiling and floor and the perimeter door and window hardware, the Board is responsible for the rooftop structures.

To begin with, the rooftop structure is a part of the unit (which includes both the sixth floor and rooftop areas) as outlined on the plat of survey.

Article I, Section 1.10 of the Declaration of Condominium Ownership (the "Declaration") generally defines "limited common elements" as a portion of the common elements "so designated in this Declaration or on the Plat as being reserved for the use of certain Unit or Units to the exclusion of other Units".

Article III, Section 3.10 of the Declaration further describes "limited common elements" to include "(a) the interior surfaces of the perimeter walls, ceilings and floors which defines the boundary planes of a Unit; (b) perimeter doors which serve exclusively a single Unit; (c) any system or component part...which serves a Unit exclusively, to the extent ... located outside the boundaries of a Unit, (d) balconies... and (e) the roof surface immediately above Units located on the sixth floor of the Building." In addition, Section 3.13 states that "the roof surfaces immediately above Units located on the sixth floor of the Building are Limited Common Elements reserved for the exclusive use of and serving the sixth floor Unit so designated as being served on the Plat. The Owner of each such Unit shall have the right to construct a wooden deck and railing on the Limited Common Element portion of the roof serving such Unit, stairs from the Unit and an access-way through the ceiling of such Unit to such roof surface."

The limited common element designation of interior wall, ceiling and floor surfaces does not mean that wall, ceiling and floor are limited common elements but rather only the surface is a limited common element. Similarly, the "roof surfaces" does not mean that the roof itself is made into limited common element; rather, the roof itself is and remains a general common element.

Article IV, Section 4.02(c) of the Declaration provides that "Repairs, maintenance and replacement of door and window hardware and the interior surface of the perimeter walls and doors with respect to which each Unit Owner is entitled to the exclusive use shall be the responsibility of the Unit Owner. At the discretion of the Board, the Board may perform, or cause to be performed, such maintenance, repairs, and replacements of the Limited Common Elements and the cost thereof shall be assessed in whole or in part to the Unit Owner benefitted thereby, and further, at the discretion of the Board, the Board may direct such Unit Owners, in the name and for the account of such Unit Owners, to arrange for such maintenance, repairs, and replacements, to pay the costs thereof and the procure and deliver to the Board such lien waivers and contractor's or subcontractor's sworn statements as may be required to protect the Property from all mechanics' or materialmen's lien claims that may arise therefrom." (emphasis added) The foregoing quoted language indicates that the Board has discretion to either perform the identified limited common element work or to have the individual unit owners undertake such work personally. Furthermore, the quoted language also indicates that the Board has discretion to assess the cost of maintenance, repairs and replacements of limited common elements "in whole or in part" back to the individual unit owner.

We note that merely designating an item as a limited common element does not automatically give rise to maintenance, repair or replacement responsibility. Rather,

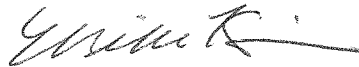
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Section 9(e) of the Illinois Condominium Property Act requires that the Declaration or By-Laws must provide for the chargeback of limited common element expenses to the unit owners assigned/benefitted by such limited common elements. In the absence of any such chargeback, the responsibility for limited common elements would be treated the same as responsibility for general common elements (which is the responsibility of the Association).

In conclusion, the unit owner is responsible for the interior surfaces of the walls, ceiling and floor and perimeter door and window hardware of the rooftop structure. The rest of the rooftop structure would be the responsibility of the Association.

I trust the foregoing is responsive to the Board of Directors' inquiry and useful to the Board and its consideration of this matter. If you have any questions or wish to discuss any aspect of the foregoing, please let me know.

Very truly yours,



Michael C. Kim

MCK/caz