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February 29, 2016

Via E-Mail
(ao@oakgrovecoto.com)

Alain O'Connor
Silver Bronze Corporation
One Upper Newport Plaza
Newport Beach, California 92660

Re: Coto Equestrian Center – Equestrian Use Preserve

Dear Alain:

Pursuant to your request, we have reviewed the Declaration of Equestrian Use Preserve Easement for Coto Equestrian Center dated July 4, 2015 and recorded December 30, 2015 as Instrument No. 2015000655175 of Official Records of Orange County (“Declaration”) to determine whether the Declaration satisfies certain statutory requirements for enforceability. The Declaration is made by Silver-Bronze Corporation, a California corporation (“Declarant”), for the benefit of the County of Orange, a governmental organization (“OC”), and the California State Horsemen’s Association, a California non-profit 501(c)(3) organization (“CSHA”, and together with “OC”, collectively the “Beneficiaries”). Capitalized terms not otherwise defined herein shall have the meaning given to them in the Declaration.

The Declaration satisfies the requirement to establish a conservation easement under Civil Code Section 815, et seq., and the Preserve Easement (as defined in the Declaration) is binding upon successive owners of the Coto Equestrian Center, for the reasons stated herein, and the covenants and restrictions set forth in the Declaration should be enforceable by the holder of the conservation easement (i.e., the Beneficiaries).

A “conservation easement” means any limitation in a deed, will, or other instrument in the form of an easement, restriction, covenant, or condition, which is or has been executed by or on behalf of the owner of the land subject to such easement and is binding upon successive owners of such land, and the purpose of which is to retain land predominantly in its natural, scenic, historical, agricultural, forested, or open-space condition.¹ Declarant is the current owner of the Coto Equestrian Center. The Declaration establishes the Preserve Easement (i.e., an equestrian use preservation easement) for the benefit of the Beneficiaries over and across the Equestrian Use Preserve and also establishes certain restrictions over the Coto Equestrian Center to preserve, as its primary use, its recreational equestrian use, as well as its important historical landmarks. The Preserve Easement is intended to bind successive owners of the Coto Equestrian Center for the conservation and preservation purposes set forth in the Declaration, as more particularly described in

¹ CA Civil Code § 815.1

in Recitals B, C and D of the Declaration and for the reasons stated in this paragraph, the Preserve Easement appears to fit within the definition of a "conservation easement" as defined in California Civil Code Section 815.1.

Given that the Preserve Easement is being voluntarily created by the Declarant, is intended to be perpetual in duration (as described in Section 2 of the Declaration) and constitutes an interest in real property notwithstanding the fact that certain restrictions set forth in the Declaration (Prohibited Uses described in Section 5 of the Declaration) may be negative in character, the nature of the Preserve Easement is that of a conservation easement for purposes of California Civil Code Section 815.2.²

Pursuant to California Civil Code Section 815.3, only the following entities or organizations may acquire and hold conservation easements:

"(a) A tax-exempt nonprofit organization qualified under Section 501(c)(3) of the Internal Revenue Code and qualified to do business in this state which has as its primary purpose the preservation, protection, or enhancement of land in its natural, scenic, historical, agricultural, forested, or open-space condition or use.

(b) The state or any city, county, city and county, district, or other state or local governmental entity, if otherwise authorized to acquire and hold title to real property and if the conservation easement is voluntarily conveyed. No local governmental entity may condition the issuance of an entitlement for use on the applicant's granting of a conservation easement pursuant to this chapter.

(c) A federally recognized California Native American tribe or a nonfederally recognized California Native American tribe that is on the contact list maintained by the Native American Heritage Commission to protect a California Native American prehistoric, archaeological, cultural, spiritual, or ceremonial place, if the conservation easement is voluntarily conveyed."

The Beneficiaries satisfy the requirements of California Civil Code Sections 815.3(a) and (b), and are thus authorized by statute to acquire and hold the Preserve Easement as a conservation easement. In addition, Section 815.7(a) of the California Civil Code expressly provides that:

² California Civil Code § 815.2 – Nature.

(a) A conservation easement is an interest in real property voluntarily created and freely transferable in whole or in part for the purposes stated in Section 815.1 by any lawful method for the transfer of interests in real property in this state.

(b) A conservation easement shall be perpetual in duration.

(c) A conservation easement shall not be deemed personal in nature and shall constitute an interest in real property notwithstanding the fact that it may be negative in character.

(d) The particular characteristics of a conservation easement shall be those granted or specified in the instrument creating or transferring the easement.

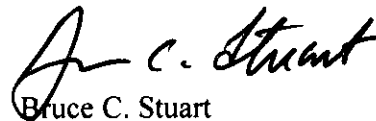
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“No conservation easement shall be unenforceable by reason of lack of privity of contract or lack of benefit to particular land or because not expressed in the instrument creating it as a running with the land.”

The Beneficiaries have privity of contract with the Declarant and the Declaration expressly provides that it is intended to be a covenant that runs with the land, and given that the Beneficiaries appear to be authorized to acquire and hold conservation easements, the lack of any reference to any appurtenant property does not invalidate the Beneficiaries right to enforce the terms of the Declaration. In other words, the Beneficiaries do not need to own appurtenant property to enforce the Preserve Easement. In the event the Beneficiaries are required to enforce the terms of the Declaration, California Civil Code Sections 815.7(b) and (c) provides the statutory remedies of injunctive relief and money damages to the Beneficiaries, as holders of the conservation easement established by the Declaration.³

Please let us know if you have any additional questions or would like to discuss further.
Thank you.

Very truly yours,



Bruce C. Stuart

BCS:jg

cc: Robert O Hill (via email)
Javier F. Gutierrez

³ California Civil Code § 815.7 – Enforcement of Easement.

(a) No conservation easement shall be unenforceable by reason of lack of privity of contract or lack of benefit to particular land or because not expressed in the instrument creating it as running with the land.

(b) Actual or threatened injury to or impairment of a conservation easement or actual or threatened violation of its terms may be prohibited or restrained, or the interest intended for protection by such easement may be enforced, by injunctive relief granted by any court of competent jurisdiction in a proceeding initiated by the grantor or by the owner of the easement.

(c) In addition to the remedy of injunctive relief, the holder of a conservation easement shall be entitled to recover money damages for any injury to such easement or to the interest being protected thereby or for the violation of the terms of such easement. In assessing such damages there may be taken into account, in addition to the cost of restoration and other usual rules of the law of damages, the loss of scenic, aesthetic, or environmental value to the real property subject to the easement.

(d) The court may award to the prevailing party in any action authorized by this section the costs of litigation, including reasonable attorney's fees.