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May 23, 2023

VIA ELECTRONIC MAIL AND CERTIFIED MAIL, RRR

San Joaquin Valley Homes

Attn: Doug Vigarito
Land Development Superintendent
5607 Avenida de los Robles
Visalia, California 93265
7022 0410 0001 9418 7345

The City of Visalia

Attn: City Council, City Clerk
220 N. Santa Fe St.
Visalia, California 93292
7022 0410 0001 9418 7352

Re: Demand - Cease and Desist Interference w/Easement Use &
Notice of Appeal
NutriNut Inc. v. City of Visalia
Our Case No.: 26236

To Whom it May Concern:

We represent Wenlyn Enterprises, LLC, NutriNut Inc., and David C. Wendt, (collectively "Appellants") who operate NutriNut Inc. at 2106 E. Main Street, Visalia, CA 93292 (the "Property"), since approximately 1997. As you likely already know, easements exist on a portion of Property for which Appellants uses for ingress and egress to the Property.

The first easement was issued by the predecessor-owner, Sherman and Evelyn Crowder, granting Associated Nut Growers, LP, (a predecessor to NutriNut Inc.) on or about January 27, 1984, and recorded in the Official Records of the County of Tulare, and given document number 6275, Vol 4156 page 774,

specifically to acknowledge the existence of the west 25 feet, parcel no. 1 of the property as an easement for ingress and egress.

The second easement was issued by the predecessor-owner, Harry J. Pappas, as President of Hariton Home Corporation, on or about May 25, 1994, and recorded in the Official Records of the County of Tulare, and given document number 94-044088, specifically to acknowledge the existence of the west 25 feet, parcel no. 2 of the property as an easement for ingress and egress.

Easement by prescription is a type of adverse possession where someone acquires an easement (a right to use another person's property in some way). Easement by prescription occurs where someone uses another's property for a certain amount of time without permission in a way in which the owner should be aware of. Courts recognize prescriptive easements because the individual claiming the easement used the property for a long period of time and relied on being able to use the land.

Under California law, all that is required to establish a prescriptive easement is Mr. Wendt prove he used the easement as an access road to the Property for the statutory period of five years or more, which has been open and notorious, continuous, uninterrupted, and hostile to the true owner (without permission). Having said that, the recording of the easement filed with the county of record is constructive notice of the contents thereof to subsequent purchasers and mortgagees and shall have the same force and effect as though it was of the original conveyance.

On June 01, 2023, the City of Visalia posted an Intent to Remove, Pending City of Visalia Approval (12.24.040 Notice of Action and Appeals) on a tree located on the Property. First, we note that this was improper notice as the Intent to Remove notice was posted on the trunk of the tree almost completely concealed by branches and leaves in an inconspicuous and unobservable manner which is inadequate to provide actual notice. Secondly, Appellants were not provided any documentations regarding the City of Visalia's approval of tree removal application by San Joaquin Valley Homes on the Property.

Please allow this Letter serves as notice to you to immediately cease and desist any interference of Appellant's use of the recorded easement, and to maintain the status quo of use of the easement as it has been used by Appellants over the last 30 years. You are hereby notified and directed to cease and desist from entering the property for any reason whatsoever without the permission of Appellants.

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This Demand Letter shall also serve as a Notice of Appeal, submitted contemporaneously to the City of Visalia, City Council, via written notice to the City Clerk.

Please contact us immediately so we can confirm how we should proceed. If necessary, we will seek a court order confirming my client has a legal recorded easement, and/or an easement by prescription for uninhibited use, for ingress and egress to his property. We hope this can be avoided and you are willing to work with us towards an amicable resolution.

Sincerely,

Williams, Brodersen, Pritchett & Burke LLP

By



Gonzalo Landaverde

Enclosures: as stated
cc: client via email