

# **Exhibit G**

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ATTORNEYS & COUNSELORS AT LAW

COLORADO AT THE POINT 8310 S. Valley Highway Suite 270  
Englewood, CO 80112  
P: 303.792.5595 F: 303.708.0527

PHOENIX, ARIZONA  
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K Hov adv The Gallery #2259 [DIW, CJF, MAC, HJM] 02-21-20 Lrt to DIW re Resp to K Hov Ntc of Intent to Repair

March 27, 20 FIRST DAY for Efforts to Begin the Repairs at The Gallery

February 21, 2020

**Via Email Only**

Dennis I. Wilenchik, Esq.  
Chris Feasel, Esq.  
Wilenchik & Bartness, A Professional Corporation  
2810 North Third Street  
Phoenix, AZ 85004

**Re: The Gallery  
Response to K. Hovnanian's February 5, 2020 Notice of Intent to Repair  
Notice Process under A.R.S. § 12-1361, et seq. and 33-2002, et seq.**

Dear Counsel:

We are writing in response to your letter dated February 5, 2020 regarding K. Hovnanian Companies of Arizona, LLC,'s et al., ("KHov") offer to make certain repairs at The Gallery.

As an initial matter, your letter mistakenly refers to the Gallery Condominium Association's ("Association") notice dated July 3, 2019 ("Notice") as the "homeowners' notice." This firm represents the Association only. We do not represent the individual unit owners. The Notice was on behalf of the Association only and for issues that are within the Association's responsibility to maintain and repair under the Declaration of Covenants, Conditions, Restrictions and Easements for Gallery ("CC&R's"). The Association is not bringing claims on behalf of one or more individual unit owners for issues that the owners are solely responsible to maintain and repair.

Secondly, several of the repairs offered by KHov relate to individual unit owner issues and are not related to any of the defects asserted in the Association's Notice. Because we do not represent the individual unit owners, neither we, nor the Association, have the authority to allow those repairs. Therefore, this letter will address each of KHov's offered repairs and indicate whether or not they are an issue that is the Association's responsibility to maintain or repair versus an individual unit owner

Michael S. Burg  
Peter W. Burg  
Hon. Alan K. Simpson\*  
Scott J. Eldredge  
David P. Hersh  
Kerry N. Jardine  
David K. TeSelle  
Seth A. Katz  
Stephen J. Burg  
Nick D. Fogel  
Janet G. Abaray\*  
Melanie S. Bailey\*

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Kevin R. Blyskal  
Nelson P. Boyle  
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Kenneth M. Daly\*  
Brian C. Dault\*\*  
Jack F. DeGree\*  
Jessica L. Derakhshanian  
Marshall Fogel  
Shane C. Fulton

Andrew L. Gartman\*\*  
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Jennifer S. Jensen\*  
Marc C. Johnson  
Larry Jones\*  
Holly Baer Kammerer  
Ronda M. Kelso\*\*  
Lindsey Krause Crandall\*

Kirsten N. Kube  
Penny J. Manship  
Lisa R. Marks  
Stephan J. Marsh  
Brian K. Matise  
Charles R. Mendez  
Michael C. Menghini  
Nicole C. Moskowitz  
Joseph F. Nistico  
Craig S. Nuss  
Lewis A. Osterman

Ryan L. Pardue  
Mari K. Perczak  
Christopher Post\*\*  
Jessica L. Powell\*  
Jessica Prochaska  
Meghan C. Quinlivan  
Travis K. Riley  
John Roberts\*  
Colin M. Simpson\*  
Joseph F. Smith, III  
Leslie A. Tuft

**OF COUNSEL**  
Scott A. Ambrose\*\*  
John M. Connell  
Dale J. Coplan, P.C.  
Jerry R. Dunn  
Paul D. Friedman  
James G. Heckbert  
Angela E. McGraw  
Ronald M. Sandgrund  
Jennifer A. Seidman  
Curt T. Sullan  
Valerie M. Sullan

**IN MEMORIAM**  
Milward L. Simpson  
1897-1993  
Joseph J. Branney  
1938-2001  
Irwin L. Sandler  
1945-2006

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issue. The Association only has the authority to grant access for those repairs identified as an Association issue below:

Location	"Repair"	Association Issue
Common Areas	(1) Pool canopy drywall cracking - repair drywall field cracks and paint to match existing finishes. (2) Reset six (6) loose cap blocks at retaining wall near transformer. (3) Remove and replace two chipped cap blocks in perimeter fence (near Unit 3117). (4) Reinstall settled/displaced pavers around the pool entrance walkway.	Yes  Yes Yes  Yes
3104	(1) Service wall mounted HVAC unit and repair leak. (2) Seal ducts at air handler. (3) Seal void in SPF roofing at parapet wall.	No Yes Yes
3105	(1) Seal ducts at air handler.	Yes
3106	(1) Service wall mounted HVAC unit and repair leak. (2) Seal ducts at air handler. (3) Remove exterior penthouse door panel, adjust door panel, paint all edges, reinstall door panel.	No Yes Yes
3109	(1) Service wall mounted HVAC unit and repair leak.	No
3110	(1) Raise HVAC condenser unit, remove sheet metal cap, install ¾" plywood on roof support, cover plywood with sheet metal cap, seal penetrations, reset HVAC condenser unit. (2) Service wall mounted HVAC unit and repair leak. (3) Seal void in SPF roofing at parapet wall. (4) Remove exterior penthouse door panel, adjust door panel, paint all edges, reinstall door panel. (5) Remove and replace 2 cracked CMU with HL wide cracks that extend through the block.	Yes  No Yes Yes  Yes
3111	(1) Service wall mounted HVAC unit and repair leak. (2) Seal ducts at air handler. (3) Install gasket at in-counter disposal switch.	No Yes No
3112	(1) Seal ducts at air handler. (2) Remove loose material at blistering SPF roofing and patch with new SPF. (3) Remove unsealed sheet metal edges at HVAC roof supports and reinstall in continuous s bead of sealant.	Yes Yes Yes

Location	"Repair"	Association Issue
3116	(1) Raise HVAC condenser unit, remove sheet metal cap, install ¾" plywood on roof support, cover plywood with sheet metal cap, seal penetrations, reset HVAC condenser unit. (2) Seal void in SPF roofing at parapet wall. (3) Remove loose materials at blister in deck coating, patch and reapply deck coating to match existing.	Yes  Yes Yes
3117	(1) Repair groove in cold joint crack to at CMU walls and stairs, fill with high-grade flexible sealant, paint repair to match adjacent finishes. (2) Remove loose material at blistering SPF roofing and patch with new SPF. (3) Remove SPF roofing around short boot, install appropriate sleeve and boot, patch SPF roofing. (4) Remove loose tub spout shroud, inject expandable foam into wall cavity to secure spout, reinstall spout shroud.	Yes  Yes Yes No
3118	(1) Seal ducts at air handler. (2) Remove loose tub spout shroud, inject expandable foam into wall cavity to secure spout, reinstall spout shroud. (3) Remove stucco at damage from HVAC condenser relocation to expose WRB, seal WRB and patch stucco, finish and paint repair to match adjacent finishes.	Yes No  Yes
3121	(1) Raise HVAC condenser unit, remove sheet metal cap, install ¾" plywood on roof support, cover plywood with sheet metal cap, seal penetrations, reset HVAC condenser unit. (2) Remove SPF roofing around short boot, install appropriate sleeve and boot, patch SPF roofing.	Yes  Yes
3122	(1) Remove loose material at blistering SPF roofing and patch with new SPF. (2) Remove loose materials at blister in deck coating, patch and reapply deck coating to match existing. (3) Remove loose tub spout shroud, inject expandable foam into wall cavity to secure spout, reinstall spout shroud. (4) Clean sliding glass door track, chemically weld open track corner, prime and paint touch-up stained trim.	Yes  Yes No No

Location	"Repair"	Association Issue
3123	<p>(1) Raise HVAC condenser unit, remove sheet metal cap, install ¾" plywood on roof support, cover plywood with sheet metal cap, seal penetrations, reset HVAC condenser unit.</p> <p>(2) Seal ducts at air handler.</p> <p>(3) Remove SPF roofing around short boot, install appropriate sleeve and boot, patch SPF roofing.</p> <p>(4) Remove exterior penthouse door panel, adjust door panel, paint all edges, reinstall door panel.</p> <p>(5) Clean threshold at exterior penthouse door jamb, seal juncture between jamb and threshold and threshold to substrate, prime and paint stained trim.</p> <p>(6) Remove loose tub spout shroud, inject expandable foam into wall cavity to secure spout, reinstall spout shroud.</p> <p>(7) Remove grout/sealant from juncture of surround and tub, provide weep holes while calking juncture, repair damaged drywall, finish and paint repair to match adjacent finishes.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>No</p> <p>No</p>
3124	<p>(1) Raise HVAC condenser unit, remove sheet metal cap, install ¾" plywood on roof support, cover plywood with sheet metal cap, seal penetrations, reset HVAC condenser unit.</p> <p>(2) Remove SPF roofing around short boot, install appropriate sleeve and boot, patch SPF roofing.</p> <p>(3) Remove loose tub spout shroud, inject expandable foam into wall cavity to secure spout, reinstall spout shroud</p>	<p>Yes</p> <p>Yes</p> <p>No</p>
3125	<p>(1) Remove exterior penthouse door panel, adjust door panel, paint all edges, reinstall door panel.</p> <p>(2) Clean threshold at exterior penthouse door jamb, seal juncture between jamb and threshold and threshold to substrate, prime and paint stained trim.</p> <p>(3) Remove loose material at blistering SPF roofing and patch with new SPF.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
3127	<p>(1) Raise HVAC condenser unit, remove sheet metal cap, install ¾" plywood on roof support, cover plywood with sheet metal cap, seal penetrations, reset HVAC condenser unit.</p> <p>(2) Seal ducts at air handler.</p> <p>(3) Remove SPF roofing around short boot, install appropriate sleeve and boot, patch SPF roofing.</p> <p>(4) Remove grout/sealant from juncture of surround and tub, provide weep holes while calking juncture, repair damaged drywall, finish and paint repair to match adjacent finishes.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>No</p>

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The Association will allow a reasonable opportunity for the repairs, but only as to those identified as being an Association Issue above. As permitted by A.R.S. § 12-1363 subsection E.1., the Association requests that the repairs be performed by a construction professional that was not involved in the construction or design of the dwelling. As soon as possible, please provide us with the name of the construction professional proposed by KHov to perform the repairs so that the Association may make a decision regarding their consent to such contractor.

The repairs are to be coordinated within 30 days of KHov's Notice of Intent to Repair, or March 6, 2020, with reasonable efforts made to begin the repairs within 35 days of the Notice of Intent to Repair, or March 11, 2020. Please contact Penny J. Manship to coordinate scheduling of the repairs.

With respect to those items that are **not** identified as an Association issue above, we will pass on your February 5, 2020 letter to the individual unit owners and let them know that if they would like those issues addressed at their unit, they should contact KHov directly to discuss that and make the appropriate arrangements.


#### **PRESERVATION OF THE ASSOCIATION'S RIGHTS**

Nothing in this correspondence is intended to waive any of the Association's rights. The Association specifically reserves its right to bring a dwelling action for, including but not limited to, any defects identified in its Notice for which KHov has failed to offer any repair or for which the completed repairs are inadequate to remedy the defect identified or any damage caused by the defect.

The Association disputes that the arbitration provision, or any other provisions, in the Home Builder's Limited Warranty applies to the Association's claims in this matter. Pursuant to subsection H of the PDA, the Association also reserves its right to amend its Notice to include construction defects identified in good faith after submission of the original notice.

Very truly yours,

**BURG SIMPSON**  
**ELDREDGE HERSH & JARDINE PC**



Craig S. Nuss, Esq.  
Penny J. Manship, Esq.

cc (via email only): Board of Directors, Gallery Condominium Association  
Shawn Mason, The Management Trust  
Mark Holmgren, Esq., Goodman Holmgren Law Group