

July 29, 2019

Via Email

Sugar Hill Property Owners Association, Inc.
Attn: Board of Directors
PO Box 443
Jensen Beach, Florida 34958

RE: Legal Opinion – Fence along Sugarhill Avenue

Dear Board Members:

This letter is in response to your request for a legal opinion on whether the Association can remove the fence located adjacent to the front portion of Sugarhill Avenue. As further discussed below, the answer is yes.

My opinion is based on the following understandings:

1. The fence is located on property owned by American Stars & Stripes, LLC.
2. The fence was installed by the Association.
3. Historically, the Association has maintained the fence.
4. No agreement exists between the Association and American Stars & Stripes, LLC, or its predecessor, requiring the Association to keep or maintain a fence in its current location.

If my understandings are correct, the Association is not required to keep the fence in place. Based on our discussions, it appears the fence was installed by the Association for purposes of providing a buffer between the Winn Dixie plaza and Sugarhill Avenue. American Stars & Stripes, LLC permitted the fence to be installed, but there is no agreement prohibiting the Association from removing it. Absent such agreement, in my opinion, the Association can remove the fence.

When deciding to remove the fence, I recommend the board consider the following factors:

1. The cost of maintaining the fence;
2. Whether there are other ways to provide a buffer, such as landscaping;
3. Whether American Stars & Stripes, LLC is willing to maintain the fence, at its cost. Even if the answer is yes, you should consider whether you want to transfer

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that responsibility because you will not have control over the level of maintenance.

4. The liability posed by having the fence. It is my understanding that the Association does not have insurance coverage for the fence because it is not on Association owned property. Without insurance, there is risk to the Association in the event anyone is injured by the fence.

I hope I have answered your questions. If you need any further assistance, please do not hesitate to contact me.

Regards,

Jacob E. Ensor

JEE/kmh