

January 15, 2014

Mr. Harry Macco
Hillcrest Homes of De Pere, LLC
2986 County Road PP
De Pere, WI 54115

Mr. Robert Macco
Mr. David Macco
Allouez Sunrise Senior Care, LLC
2986 County Road PP
De Pere, WI 54115

The Hillcrest Partnership No. 1, LLP
2986 County Road PP
De Pere, WI 54115

Ms. Tracy Flucke
Village Administrator
Village of Allouez
1900 Libal Street
Green Bay, WI 54301

Re: Potential Conflicts of Interest

Dear Messrs. Macco and Ms. Flucke:

There are relationships between the parties and the law firm of Davis & Kuelthau (sometimes referred to as the "Firm"). Attorney Ann Patteson represents Allouez Sunrise Senior Care, LLC, The Hillcrest Partnership No., LLP and Hillcrest Homes of De Pere, LLC ("Hillcrest Entities") with respect to their pending projects located at 289 E. St. Joseph Street in the Village of Allouez (the "PDD") and the rebuilding of the Hilltop Apartments ("Hilltop") (collectively, the PDD and Hilltop are referred to as the Matters). The Village of Allouez is also a current client of the Firm, and Attorney James Kalny represents the Village of Allouez regarding its labor and employment related needs. Issues may arise during these two Matters.

With respect to the Matters, it is desired that the Firm represent the Hillcrest Entities. In order to proceed in this matter, it is necessary to obtain a waiver of the conflicts of interest which exist because both parties are current clients of the Firm.

The Firm through James M. Kalny has and continues to provide legal services to the Village. Mr. Kalny's representation of the Village is limited to labor and employment matters. Mr. Kalny will have no involvement in these Matters.

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The Village is represented by Attorney Dennis Duffy as its Village Attorney. Mr. Duffy is not affiliated with the Firm. Mr. Duffy has continued to represent the Village for purposes of these Matters.

The foregoing circumstances raise conflicts of interest which must be addressed and disclosed pursuant to the Wisconsin Supreme Court Rules ("SCR") regarding ethics.

SCR 20:1.7. Conflicts of interest current clients

(a) Except as provided in par. (b), a lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if:

- (1) the representation of one client will be directly adverse to another client; or
- (2) there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by a personal interest of the lawyer.

(b) Notwithstanding the existence of a concurrent conflict of interest under par. (a), a lawyer may represent a client if:

- (1) the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client;
- (2) the representation is not prohibited by law;
- (3) the representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal; and
- (4) each affected client gives informed consent, confirmed in a writing signed by the client.

The fact that both Parties are represented by different members of the firm raises issues of concurrent conflict pursuant to SCR 20:17 (a) (1).

When representation of multiple clients in a single matter is undertaken, the information must include the implications of the common representation, including possible effects on loyalty, confidentiality and the attorney-client privilege and the advantages and risks involved.

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A lawyer's own interests should not be permitted to have an adverse effect on representation of a client. For example, if the probity of a lawyer's own conduct in a transaction is in serious question, it may be difficult or impossible for the lawyer to give a client detached advice. Similarly, when a lawyer has discussions concerning possible employment with an opponent of the lawyer's client, or with a law firm representing the opponent, such discussions could materially limit the lawyer's representation of the client.

The ABA acknowledges that directly adverse conflicts can arise in transactional matters. For example, an attorney asked to represent several individuals seeking to form a joint venture is likely to be materially limited in the attorney's ability to recommend or advocate all possible positions that each might take because of the attorney's duty of loyalty to the others. The conflict in effect forecloses alternatives that would otherwise be available to the client. The mere possibility of subsequent harm does not itself require disclosure and consent. The critical questions are the likelihood that a difference in interests will eventuate and, if it does, whether it will materially interfere with the attorney's independent professional judgment in considering alternatives or foreclose courses of action that reasonably should be pursued on behalf of the client.

With regard to the attorney-client privilege, the prevailing Rule is that, as between commonly represented clients, the privilege does not attach. Hence, it must be assumed that if litigation eventuates between the clients, the privilege will not protect any such communications, and the clients should be so advised. The attorney has an equal duty of loyalty to each client, and each client has the right to be informed of anything bearing on the representation that might affect that client's interests and the right to expect that the attorney will use that information to that client's benefit. The attorney should, at the outset of the common representation and as part of obtaining each client's informed consent, advise each client that information will be shared and that the attorney will have to withdraw if one client decides that some matter material to the representation should be kept from the other. In limited circumstances, it may be appropriate for the attorney to proceed with the representation when the clients have agreed, after being properly informed, that the attorney will keep certain information confidential. Any limitations on the scope of the representation made necessary as a result of the common representation should be fully explained to the clients at the outset of the representation.

In regard to the Village, Mr. Kalny's representation of the Village in labor and employment matters does not directly impact these two Matters. Mr. Kalny will be secluded from and will not be involved in these matters whatsoever. Mr. Duffy's presence and his negotiation with regard to these two matters should adequately protect the interests of the Village.

Consequently both Ms. Patteson and Mr. Kalny believe that they can competently and diligently continue to represent their prospective clients as required by SCR 20.17 (b) (1). Seeing as the concurrent representation is not prohibited by law and neither representation involves the

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assertion of a claim against the other party (as prohibited by SCR 20.17 (b) (2) and (3)) if the Parties independently consent to the concurrent representation, it may continue.

Subject to the above limitations each client in the common representation has the right to loyal and diligent representation and the protection of the rules concerning the obligations to a former client. The client also has the right to discharge the attorney. A client who has give consent to a conflict may revoke the consent at any time. Whether revoking consent to the client's own representation precludes the attorney from continuing to represent the other clients depends on the circumstances, including the nature of the conflict; whether the client revoked consent because of material change in circumstances, the reasonable expectations of the other client, and whether the material detriment to the other clients or attorney would result.

After reviewing this letter if you concur with us regarding the waiver of conflicts we have discussed, please consent by signing below and returning the signature page to me. If you have questions or are unwilling to sign please contact my office regarding your permission. Thank you for your attention to this matter.

Very truly yours,

Davis & Kuelthau, s.c.



Ann L. Patteson

I hereby give consent that the Ann Patteson may continue to represent the Hillcrest Entities, with respect to the PDD and Hilltop rebuilding and that James Kalny may continue to represent the Village of Allouez with respect to labor and employment matters.

HILLCREST HOMES OF DE PERE, LLC

Harry Macco, Managing Member

Date: _____

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ALLOUEZ SUNRISE SENIOR CARE, LLC
Alpha Family Limited Partnership, Sole Member
By: Belgium Bridges, LLC, General Partner

David J. Macco, Managing Member
Belgium Bridges, LLC

Date: _____

Robert A. Macco, Managing Member
Belgium Briges, LLC

Date: _____

THE HILLCREST PARTNERSHIP NO. 1, LLP
By: Belgium Briges, LLC, General Partner

David J. Macco, Managing Member
Belgium Bridges, LLC

Date: _____

Robert A. Macco, Managing Member
Belgium Briges, LLC

Date: _____

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I hereby give consent that the Ann Patteson may continue to represent the Hillcrest Entities with respect to the PDD and the Hilltop matters and that James Kalny may continue to represent the Village of Allouez with respect to labor and employment matters.

VILLAGE OF ALLOUEZ

Tracy Flucke, Administrator

Date: _____