

HAMILTON COVE HOMEOWNERS ASSOCIATION CIVIL CODE SECTION 4765 HEARING 5/25/2022

On May 25, 2022, the Hamilton Cove Homeowners Association's ("Association") Board of Directors held a hearing by Zoom pursuant to the Rules of the Association and Civil Code Section 4765 to consider *de novo* an Application which was the subject of a decision of the Association's Architectural Committee ("Committee") dated 1/6/2022. The following persons participated in the hearing:

Director Martin Curtin ("Curtin")
Director Mike Owens ("Owens")
Director Norris J. Bishton, Jr. ("Bishton")

Jeffery S. Gubernick, attorney for the Association

Mark and Carole Forbush, Applicants

Barry A. Ross, attorney for Applicants
Alice E. Waters, attorney for Applicants

Director Bart Glass ("Glass") did not participate because he was hospitalized. Director Rich Kirschner ("Kirschner") recused himself because he is a sitting Superior Court Judge. Collectively, Curtin, Owens and Bishton are referred to herein as the "Hearing Board Members."

The Rules provide for an Open Meeting. Applicants consented to the meeting by Zoom. All Owners were noticed. Some Owners attended the Zoom meeting. No count was made of the Owners attending. The hearing was recorded.

DECISION OF THE BOARD OF DIRECTORS

On January 6, 2022, the Committee considered the resubmitted application of the owners of Units 81 and 82 in Building 8, Mark and Carole Forbush (the "Applicants"), to make alterations to the two Units in order to combine them into a single Unit (the "Revised Submission"). As set out in the Revised Submission, the Applicants seek to make the following alterations:

Request No I:

Exterior Elevator

A minimalist self-contained elevator/lift, rated for exterior use, would be attached to the wall of Building 8. Installation is minimal compared to commercial heavy-duty elevators.

The size of the enclosure for the elevator has been reduced by 50%. Instead of servicing both Units 81 and 82 it serves Unit 82 only, thereby reducing the exterior enclosure of the elevator by half.

The elevator opens into Unit 82 only, eliminating any remodeling of the bathroom in Unit 81. This results in an overall 50% reduction in bathroom remodeling.

Request No. 2

Interior Elevator

This resubmission provides one elevator/lift between the interior lower and upper levels of Unit 82 only. The interior elevator in Unit 81 has been eliminated, producing a 50% reduction in interior elevators.

Request No. 3

Desalinization Unit

This resubmission adds a desalinization Unit to reduce freshwater usage by the Units and to offset additional bedrooms. It would tap into the existing, common area saltwater intake system.

Request No. 4

Bedrooms

This resubmission replaces the interior elevator/lift in Unit 81 with two additional bedrooms at that location.

Request No. 5

Laundry/Bathroom

This submission converts the existing laundry room in Unit 81 into a ¼ bathroom. Full laundry facilities continue in Unit 82 which is accessible from Unit 81.

Request No. 6

Upper-Level Hallway Access

This resubmission adds a hallway between the Units at the location of the trespassing pipes. If the pipes remain, this hallway will be partially obstructed. However, the hallway will be unobstructed when the pipes are removed and Forbush fully recovers their recorded square footage at that location.

The Revised Submission is attached hereto as **Appendix A**.

The Committee denied the six requests contained in the Revised Submission. The denial was set out in written minutes of the Committee dated 1/6/2022. The Applicants appealed the Committee's decision pursuant to a provision of the Association's Rules which provides:

If the Architectural Committee disapproves of any request made to the Committee it shall communicate the disapproval, including the reasons for the disapproval, to the Owner seeking approval in writing (the "Disapproved Request") Thereafter, the Owner may request a reconsideration of the Disapproved Request by the Board of Directors in an open meeting as required by California Civil Code Section 4765 (a) (5). The reconsideration shall be de novo At the meeting where the

Disapproved Request is considered by the Board, the Owner may be represented by counsel and may present evidence in support of the Disapproved Request. A Board Member who is also a member of the Architectural Committee is not precluded by reason thereof from serving as a Board Member when a Disapproved Request is reconsidered.

At the inception of the hearing, Applicants objected to the Hearing Board Members on the basis that they have conflicts of interests as stated in a letter from Applicants' attorney, Barry P. Ross, dated 3/3/2022:

There is an ongoing problem regarding conflicts of interest of the Board, and particularly who should be recused from participating in the hearing. Your law partner and Board President Norris J. Bishton, Jr. should be recused for the reasons I previously mentioned. The simple fact that Mr. Bishton did not vote as a member of the Architectural Committee does not mean that he did not influence any of the members of the Architectural Committee in its decision on the Forbush matter. Mr. Bishton has a clear conflict of interest as general counsel and President of the Board.

There is another issue to consider. Three members of the Architectural Committee are also voting members of the Board of Directors. This refers to Mr. Glass, Mr. Owen and Mr. Curtin. These three persons should be recused from participating in the Board meeting because they already voted against the Forbush project at the Architectural Committee meeting.

The Hearing Board Members determined that no conflict of interest exists. Bishton is not General Counsel for the Association. Decisions regarding the retention of law firms and on legal matters are made by the Litigation Committee made up of Glass, Curtin and Owens. With regard to Curtin and Owens being members of the Architectural Committee, Section 4.01 of the CC&Rs provides: "Board members may also serve as [Architectural] committee members." Additionally, the hearing is *de novo*, Applicants had an opportunity to present new information and Applicants'

attorneys had an opportunity to make a presentation which they did not have prior to the Committee's 1/6/2022 decision.

The following written material was taken into the record and was reviewed by the Hearing Board Members:

From the Architectural Committee:

- a) Minutes of the 1/6/2022 meeting of the Architectural Committee
- b) Minutes of the 1/18/2021 meeting of the Architectural Committee

From the Applicants:

- a) a letter from Barry A. Ross attorney for the Applicants dated May 20, 2022
- b) a document entitled: Forbush Concept Design Revisions after January 2021 rejection
- c) a letter from Alice E. Waters attorney for Applicants dated 4/27/2020.
- d) a 544 page attachment to Ms. Water's letter
- e) a 42 page document identified as litigation brief--Forbush v HOA.

Prior to the hearing all of the written material was provided to the Hearing Board Members.

Both of the attorneys representing the Applicants made presentations. After they completed their presentation the Hearing Board Members took the matter under submission.

In addition to the written material described above, the Hearing Board Members considered the following:

Architectural Committee Rules:

1. The documents of the Association (Article IV of the CC&R's) establish an Architectural Review Committee composed of three members appointed by the Board of Directors. This Committee has the authority to consider and act upon any and all plans submitted for its approval and perform such other duties as from time-to-time shall be assigned to it by the Board, including the inspection of construction in progress to assure its conformance with plans approved by the Committee.
2. In addition, it is the Committee's duty to maintain the architectural standards of the Project and to assure that any new construction, alterations or additions will not detract from the beauty of the Project or the enjoyment thereof by the Owners, and that the upkeep and maintenance thereof shall not become a burden on the Association. It is recommended that Owners refer to limitations imposed by the CC&R's before planning any interior or exterior additions or alterations. Alterations in the Common Area can only be made by the Board of Directors.

Request for approval of any alteration must be submitted in writing to:

Architectural Committee
Hamilton Cove Homeowners' Association
P. O. Box 1573
Avalon, CA 90704

3. The Committee shall utilize a two-stage approval process. The Owner's preliminary submission shall include sketches and a description of the work. After the Committee has approved the basic plan, more complete drawings with detailed specifications may be required. If applicable, the Committee may require engineering studies and approvals and permits issued by the City of Avalon. If the Architectural Committee disapproves of any request made to the Committee it shall communicate the disapproval, including the reasons for the disapproval, to the Owner seeking approval in writing (the

“Disapproved Request”) Thereafter, the Owner may request a reconsideration of the Disapproved Request by the Board of Directors in an open meeting as required by California Civil Code Section 4765 (a) (5). The reconsideration shall be *de novo*. At the meeting where the Disapproved Request is considered by the Board, the Owner may be represented by counsel and may present evidence in support of the Disapproved Request. A Board Member who is also a member of the Architectural Committee is not precluded by reason thereof from serving as a Board Member when a Disapproved Request is reconsidered.

4. For general information, the following alterations are listed as examples of what shall not be allowed:

- Pictures, plaques, planters, or flagpoles attached to the outside walls and/or doors;
- Screening or any covering attached to deck railings;
- Exterior shutters or blinds;
- Superimposed materials over common balcony surfaces;
- Planters, fences or pots restricting access to and passage through the common balconies;
- Pots that do not conform to the architectural theme or that are so large as to damage the balcony surface, or that are not placed on rollers, as herein provided.
- **Use of dead space for anything except storage;** and
- Locks on exterior doors other than the locks originally installed.(Emphasis added)

5. If an architectural change is made without approval of the Architectural Committee, the Owner has thirty (30) days to remove the change or be subject to the Enforcement Procedures, as herein provided.

Association’s CC&Rs Provisions:

Section 1.18. Common Areas or Common Property. "Common Areas" or "Common Property" shall mean all areas on the Project, **except the Condominiums** and

Single Family Residential Lots and Residences. Common Areas shall include, without limitation, for maintenance purposes of the Association, but not necessarily by way of fee title, all gas, water and waste pipes, all sewers, **all ducts, chutes, conduits, wires and other utility installations of the Project Improvements wherever located (except the outlets thereof when located within the Condominiums)**, the land upon which the Project Improvements are located, the airspace above the Project Improvements, private streets or driveways, walkways, common stairways, parking areas, and landscaping on those areas of the Project which are not defined as a part of the Condominiums. (Emphasis added)

Section 1.20. Condominium. "Condominium" shall mean an equal undivided interest in a subleasehold or fee estate in Phases 1 through 4 and an equal undivided fee simple interest in the Improvements on such Phases, together with a separate subleasehold or fee interest **in a Unit** and all easements and licenses appurtenant thereto. Such fractional, undivided interest in the subleasehold or fee and such fractional, undivided fee simple interest for Phases 1 through 4 shall be equal to a fraction whose numerator is one (1) and whose denominator is the number of Units in such Phase. In Increments 5B through 5F, "Condominium" shall mean an equal undivided interest fee simple interest in the Improvements on such Increment, together with a separate undivided interest **in a Unit** and all easements and licenses appurtenant thereto. Such fractional, undivided interest in the leasehold and such fractional, undivided fee simple interest for any Increment shall be equal to a fraction whose numerator is one (1) and whose denominator is the number of Units in such Increment. (Emphasis added)

Section 1.74. Unit. "Unit" shall mean the elements of a Condominium not owned in common with the Owners of other Condominiums in the Project. Each of the Units shall be a separate subleasehold or fee simple estate, as separately shown, numbered and designated in any Condominium Plan. **Each such Unit consists of a living area space or spaces ("Residential Element") bounded by and contained within**

the interior unfinished (meaning exclusive of wall coverings, floor coverings, fixtures or decorations) surfaces of the perimeter walls, floors, ceilings, windows and doors of each Residential Element, as shown and defined in the Condominium Plan. In interpreting deeds, declarations and plans, the existing physical boundaries of the Unit or a Unit constructed or reconstructed in substantial accordance with the Condominium Plan and the original thereof, if such plans are available, shall be conclusively presumed to be its boundaries, rather than the description expressed in the deed, Condominium Plan, Original Declaration, or this Restated CC&Rs, regardless of settling or lateral movement of the building and regardless of minor variances between boundaries as shown on the Condominium Plan or defined in the deed, the Original Declaration and this Restated CC&Rs, and the boundaries of a building as constructed or reconstructed. **In simple language, a “Unit” is everything inside the walls of a Condominium which is the sole property of a sublessee or fee simple owner.** A sublessee or fee simple owner has an undivided interest in the walls and Improvements in the Increment where the Unit is located. (Emphasis added)

Section 4.01. Members of Committee. The Architectural Review Committee, sometimes referred to in this Restated CC&Rs as the "Architectural Committee," shall consist of three (3) members. The Board shall name one member as Chairman. The Board shall have the power to appoint and remove all of the members of the Architectural Committee. Committee members appointed by the Board shall be from the Membership of the Association. **Board members may also serve as committee members.** (Emphasis added)

Section 8.07. Inside and Outside Installations. No outside installation of any type, including but not limited to clotheslines, shall be constructed, erected or maintained on any Residence, except as may be installed by, or with the prior consent of, the Architectural Committee. No balcony or patio covers, wiring, or installation of air conditioning, water softeners, or other machines shall be installed on the exterior of the buildings of the Project or be allowed to protrude through

the walls or roofs of the buildings (with the exception of those items installed during the original construction of the Project), unless the prior written approval of the Architectural Committee is secured. Outdoor patio or lounge furniture, plants and barbecue equipment may be maintained pursuant to the Rules and Regulations. The type and color of all exposed window coverings shall be subject to the prior written approval of the Architectural Committee. Notwithstanding the specificity of the foregoing, no exterior addition, change or alteration to any Condominium or Residence shall be commenced without the prior written approval of the Architectural Committee. **Nothing shall be done in any Condominium or in, on or to the Common Areas which will or may tend to impair the structural integrity of any building in the Project or which would structurally alter any such building except as otherwise expressly provided herein.** There shall be no alteration, repair or replacement of wall coverings within Condominiums that may diminish the effectiveness of the sound control engineering within the buildings in the Project. No Owner shall cause or permit any mechanic's lien to be filed against any portion of the Project for labor or materials alleged to have been furnished or delivered to the Project or any Condominium for such Owner, and any Owner who does so shall immediately cause the lien to be discharged within five (5) days after notice to the Owner from the Board. If any Owner fails to remove such mechanic's lien, the Board may discharge the lien and charge the Owner a Special Assessment for such cost of discharge.(Emphasis added)

State Statutes:

Civil Code 4600.

(a) Unless the governing documents specify a different percentage, the affirmative vote of members owning at least 67 percent of the separate interests in the common interest development shall be required before the board may grant exclusive use of any portion of the common area to a member.

(b) Subdivision (a) does not apply to the following actions:

(1) A reconveyance of all or any portion of that common area to the subdivider to enable the continuation of development that is in substantial conformance with a detailed plan of phased development submitted to the Real Estate Commissioner with the application for a public report.

(2) Any grant of exclusive use that is in substantial conformance with a detailed plan of phased development submitted to the Real Estate Commissioner with the application for a public report or in accordance with the governing documents approved by the Real Estate Commissioner.

(3) Any grant of exclusive use that is for any of the following reasons:

(A) To eliminate or correct engineering errors in documents recorded with the county recorder or on file with a public agency or utility company.

(B) To eliminate or correct encroachments due to errors in construction of any improvements.

(C) To permit changes in the plan of development submitted to the Real Estate Commissioner in circumstances where the changes are the result of topography, obstruction, hardship, aesthetic considerations, or environmental conditions.

(D) To fulfill the requirement of a public agency.

(E) To transfer the burden of management and maintenance of any common area that is generally inaccessible and not of general use to the membership at large of the association.

(F) To accommodate a disability.

(G) To assign a parking space, storage unit, or other amenity, that is designated in the declaration for assignment, but is not assigned by the declaration to a specific separate interest.

(H) To install and use an electric vehicle charging station in an owner's garage or a designated parking space that meets the requirements of Section 4745, where the installation or use of the charging station requires reasonable access through, or across, the common area for utility lines or meters.

(I) To install and use an electric vehicle charging station through a license granted by an association under Section 4745.

(J) To install and use a solar energy system on the common area roof of a residence that meets the requirements of Sections 714, 714.1, and, if applicable, Section 4746.

(K) To comply with governing law.

(c) Any measure placed before the members requesting that the board grant exclusive use of any portion of the common area shall specify whether the association will receive any monetary consideration for the grant and whether the association or the transferee will be responsible for providing any insurance coverage for exclusive use of the common area.

(Amended by Stats. 2017, Ch. 818, Sec. 2. (AB 634) Effective January 1, 2018.)

Civil Code §4760. Improvements to Separate Interest.

(a) Subject to the governing documents and applicable law, a member may do the following:

(1) Make any improvement or alteration **within the boundaries of the member's separate interest that does not impair the structural integrity or mechanical systems or lessen the support of any portions of the common interest development.**

(2) Modify **the member's separate interest**, at the member's expense, to facilitate access for persons who are blind, visually handicapped, deaf, or physically disabled, or to alter conditions

which could be hazardous to these persons. These modifications may also include modifications of the route from the public way to the door of the separate interest for the purposes of this paragraph if the separate interest is on the ground floor or already accessible by an existing ramp or elevator. The right granted by this paragraph is subject to the following conditions:

(A) The modifications shall be consistent with applicable building code requirements.

(B) The modifications shall be consistent with the intent of otherwise applicable provisions of the governing documents pertaining to safety or aesthetics.

(C) Modifications external to the dwelling shall not prevent reasonable passage by other residents, and shall be removed by the member when the separate interest is no longer occupied by persons requiring those modifications who are blind, visually handicapped, deaf, or physically disabled.

(D) Any member who intends to modify a separate interest pursuant to this paragraph shall submit plans and specifications to the association for review to determine whether the modifications will comply with the provisions of this paragraph. The association shall not deny approval of the proposed modifications under this paragraph without good cause.

(b) Any change in the exterior appearance of a separate interest shall be in accordance with the governing documents and applicable provisions of law. (Emphasis added)

After considering the written material and the presentation of the Applicant's attorneys, and after conferring, the Hearing Board Members made the following findings and decisions:

Findings:

Building 8 was constructed in 1988. It is irregular in shape and built on a hillside. It consists of 18 Units stacked one above the other with four

Units on four levels and two Units on the top level. Building 8 is stair stepped on a hillside so that a portion of the top of each Unit forms the balcony and floor of the Unit above. Units 81 and 82 are two storied as well as the other two Units on the first level. The remaining Units are one story. Units 81 and 82 are two of the four lowest Units, the middle Units of the four. Structurally, Building 8 is a single building where any structural alteration of a Unit may impair the structure of the Unit or Units above.

Ducts, chutes, conduits, wires and other utility installations are located throughout Building 8 in floors, walls and ceilings including bearing and party walls. Such ducts, chutes, conduits, wires and other utility installations serve multiple Units in Building 8.

Hamilton Cove consists of 14 condominium buildings and a clubhouse containing 185 Units built between 1985 and 1991 of similar construction to Building 8. No structural alteration of any of the buildings has occurred since the buildings were constructed.

Owners acquire ownership of a Unit as defined in Section 1.74 of the Association's CC&Rs which provides: **“In simple language, a ‘Unit’ is everything inside the walls of a Condominium which is the sole property of a sublessee or fee simple owner.”** Everything else is Common Area in which the Owner has an undivided fractional interest in the Improvements in the Phase in which the building is located or an easement defining access and use of other parts of the Common Area. (Emphasis added)

Common Areas include walls and other areas which contain “ducts, chutes, conduits, wires and other utility installations of the Project Improvements **wherever located**” as provided in Section 1.18 of the CC&Rs. (Emphasis added)

The authority of the Board of Directors to approve alterations sought by an Owner is constrained by the CC&Rs and Civil Code Sections 4600 and 4760.

The authority of the Board or even the Owners is further limited by Section 8.07 of the CC&Rs which precludes approving alterations “which will or may tend to impair the structural integrity of any building in the Project or which would structurally alter any such building except as otherwise expressly provided [in the CC&Rs].”

Applicants have made submissions in connections with their requests both to the Committee and to the Board. The submission process is a two phase process as defined in the Architectural Rules. All submissions to date are first phase submissions.

Combining Units 81 and 82 in Building 8 Into One Unit

The overall intent of the Revised Submission is to combine Units 81 and 82 into a single Unit. To that end, the Revised Submission seeks to install an elevator on the outside wall of Building 8 which is Common Area; remove the stairway to the second floor in Unit 82 and replace it with an elevator so that “access between the upper and lower levels [will be] located in Unit 82 only”; remove the first floor wall between the two Units which contains ducts, chutes, conduits, wires and other utility installations; convert the living room of Unit 81 into two bedrooms; and various other changes. The proposal envisions utilizing areas that contain ducts, chutes, conduits, wires and other utility installations which Applicants assert are part of Applicants Units as defined by Section 1.74 of the CC&Rs Applicants demand removal of the ducts, chutes, conduits, wires and other utility installations from the said areas which Applicants assert are trespassing. The proposal also envisions utilizing dead space adjacent to the two Units as part of Applicants’ Units as defined by Section 1.74 of the CC&Rs.

The Board hereby rejects the combining of the two Units into a single Unit for the following reasons:

- a) The areas which contain ducts, chutes, conduits, wires, and other utility installations which Applicants seek to include in their Units as defined by Section 1.74 of the CC&Rs are Common Area. The ducts, chutes, conduits, wires and other utility installations are not trespassing on Applicant’ Units as such Units are defined in Section 1.74 of the CC&Rs.
- b) The proposal involves granting Applicants exclusive use of Common Area including Common Area where ducts, chutes, conduits, wires and other utility installations are located which the Board does not have authority to do. Civil Code Section 4600. None of the exceptions contained in said section apply.

- c) Some of the proposed alterations within the two Units would impair the structural integrity of Building 8 in violation of Civil Code Section 4760 and Section 8.07 of the CC&Rs. None of the exceptions contained in Civil Code Section 4760 apply.
- d) The proposal involves using dead space adjacent to the two Units for a purpose other than storage in violation of the Architectural Rules. The Architectural Committee has approved the use of dead space in the past but only for storage.

Request No. 1: Exterior Elevator.

Request No. 1 is not approved. The Exterior Elevator would be located in Common Area and would require granting exclusive use of Common Area. The Board does not have authority to approve an exclusive use of Common Area as provided by Civil Code Section 4600 nor does the requested alteration come within the purview of any of the exceptions contained in said section. Additionally, Civil Code Section 4760(a)(2) applies only to the “member’s separate interest” and not to Common Area. The Exterior Elevator would alter the appearance of Building 8 inconsistent with the exterior appearance of the other buildings at Hamilton Cove. This does not meet the requirement of Section 4.02 of the CC&Rs which provides that any such exterior alteration “not be detrimental to the appearance of the surrounding area of Hamilton Cove as a whole, that the appearance of any structure affected thereby will be in harmony with the surrounding structures.”

Request No. 2: Interior Elevator

Request No. 2 is not approved. Installation of the Interior Elevator would involve eliminating the stairway between the first and second floors of the Unit. The proposed Interior Elevator involves modification of the second level floor joists and other structural issues.

Request No 3: Desalination Unit

Request No. 3 is not approved. The Association supplies salt water to all Units to be used solely to flush toilets. The Association’s saltwater system does not have the capacity to furnish saltwater for other purposes. In addition, the Association operates the sewer system on the Project which

interfaces with the Avalon sewer system. Adding highly concentrated brine to the sewage could jeopardize the system.

Request No. 4: Bedrooms

Request No. 4 is not approved. The proposal to create two additional bedrooms involves structural alterations. In addition, the proposal involves the exclusive use of Common Area including Common Area containing ducts, chutes, conduits, wires and other utility installations. As pointed out above, the Board does not have authority to approve exclusive use of Common Area.

Request No. 5: Laundry/Bathroom

Request No. 5 to convert the laundry room in Unit 81 to a ¼ bathroom is not approved. Such a conversion would involve substantially altering the plumbing which is part of the Common Area. It also appears from the drawing submitted, that the alteration would involve Common Area containing ducts, chutes, conduits, wires and other utility installations.

Request No. 6: Upper Level Hallway Access

Request No 6 is not approved. The request involves granting exclusive use of Common Area. Pursuant to Civil Code Section 4600, the Board lacks authority to grant such exclusive use. Applicants contend that the pipes are trespassing on the Unit. The pipes are not located within an area that is part of the Unit. They are located in a chute. Section 1.18 of the CC&Rs provides that “Common Areas shall include, without limitation, for maintenance purposes of the Association, but not necessarily by way of fee title, all gas, water and waste pipes, all sewers, all ducts, chutes, conduits, wires and other utility installations of the Project Improvements **wherever located.**” (Emphasis added)

Additional Matters. As originally developed, Units in Buildings 1 and 2 have washers and dryers located in Common Areas which also contain chutes, conduits, wires and other utility installations. Owners in Buildings 1 and 2 have use of the washer and dryer located near their Units. As originally developed, certain Units in Building 10 do not have washers and dryers in their Units. Such Owners have access to a laundry room located in Common Area containing chutes, conduits, wires and other utility

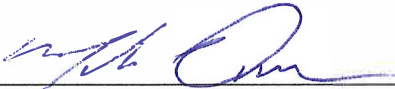
installations. Applicants' assert that this demonstrates that the Board has granted exclusive use of Common Area in the past. The Board did not grant exclusive use to the referenced washers and dryers. The referenced washer and dryer areas were established by the Project's developers and provided to the original Owners of the Units.



Norris J. Bishton, Jr., Director



Martin Curtin, Director



Mike Owens, Director

ISSUED: June 22, 2022

APPENDIX A

FORBUSH CONCEPT DESIGN

Revisions After January 2021 Rejection

Dear Architectural Committee,

In response to the Architectural Committee's January 2021 rejection of Forbush's concept design, Forbush herein resubmits their fourth proposal containing modifications resulting in a fifty-percent (50%) reduction in several key features of the plan. Attached, please find images of the type of residential elevators, or "lifts", that are proposed for this project.

Following are the key points in this resubmission:

Exterior Elevator

A minimalist self-contained elevator/lift, rated for exterior use, would be attached to the wall of Building 8. Installation is minimal compared to commercial heavy-duty elevators.

The size of the enclosure for the elevator has been reduced by 50%. Instead of servicing both Units 81 and 82 it serves Unit 82 only, thereby reducing the exterior enclosure of the elevator by half.

The elevator opens into Unit 82 only, eliminating any remodeling of the bathroom in Unit 81. This results in an overall 50% reduction in bathroom remodeling.

Interior Elevator

This resubmission provides one elevator/lift between the interior lower and upper levels of Unit 82 only. The interior elevator in Unit 81 has been eliminated, producing a 50% reduction in interior elevators.

Desalinization Unit

This resubmission adds a desalinization Unit to reduce freshwater usage by the Units and to offset additional bedrooms. It would tap into the existing, common area salt water intake system.

Bedrooms

This resubmission replaces the interior elevator/lift in Unit 81 with two additional bedrooms at that location.

Laundry/Bathroom

This submission converts the existing laundry room in Unit 81 into a $\frac{3}{4}$ bathroom. Full laundry facilities continue in Unit 82 which is accessible from Unit 81.

Upper-Level Hallway Access

This resubmission adds a hallway between the Units at the location of the trespassing pipes. If the pipes remain, this hallway will be partially obstructed. However, the hallway will be

FORBUSH CONCEPT DESIGN

Revisions After January 2021 Rejection

unobstructed when the pipes are removed and Forbush fully recovers their recorded square footage at that location.

We look forward to your timely response.

FORBUSH CONCEPT DESIGN
Revisions After January 2021 Rejection



ORIGINAL DESIGN



REJECTED DESIGN (JANUARY 2021)

The elevator/lift travels between the two windows of Units 81 and 82 and is attached to the facade of Building 8.

The elevator occupies the air space between the back-side of the exterior steps and the facade of Building 8.

The elevator is enclosed within a box that spans the width of the air space between the Units. The facade is designed to compliment the surrounding architecture.

This design provides elevator access to the Lower Level of both Units.



REVISED DESIGN *

The elevator/lift is enclosed within a box that is 50% smaller than the design above; it spans only half the air space between the Units.

This design provides elevator access to the Lower Level of Unit 82 only.

* This is the third exterior elevator design submitted by Forbush.

FORBUSH CONCEPT DESIGN
Revisions After January 2021 Rejection



EXTERIOR

Savaria Vertical Platform Lift

Minimalist self-contained elevator/lift, rated for exterior use.

This would be attached to the facade of Building 8, fully enclosed in a box with an exterior stucco finish to match the surrounding architecture.



INTERIOR

Stiltz Duo Alta Home Elevator

Minimalist self-contained lift that is bolted to studs.

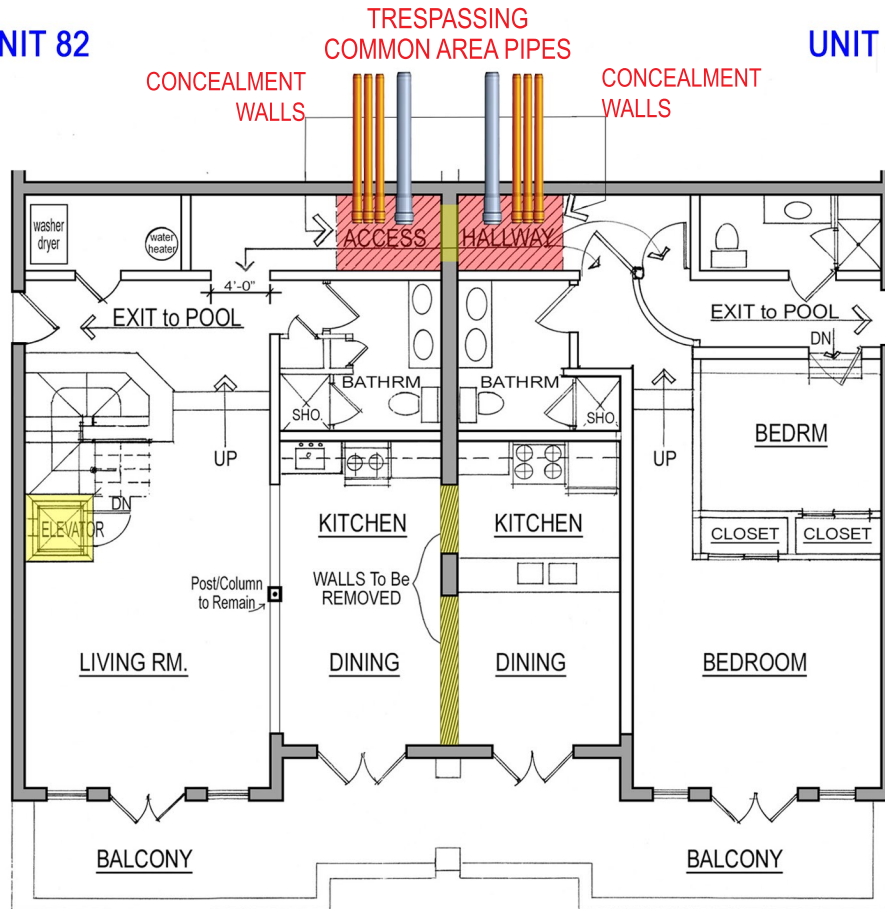
Proposed location is the existing interior stairwell.

FORBUSH CONCEPT DESIGN

Revisions After January 2021 Rejection

UNIT 82

UNIT 81



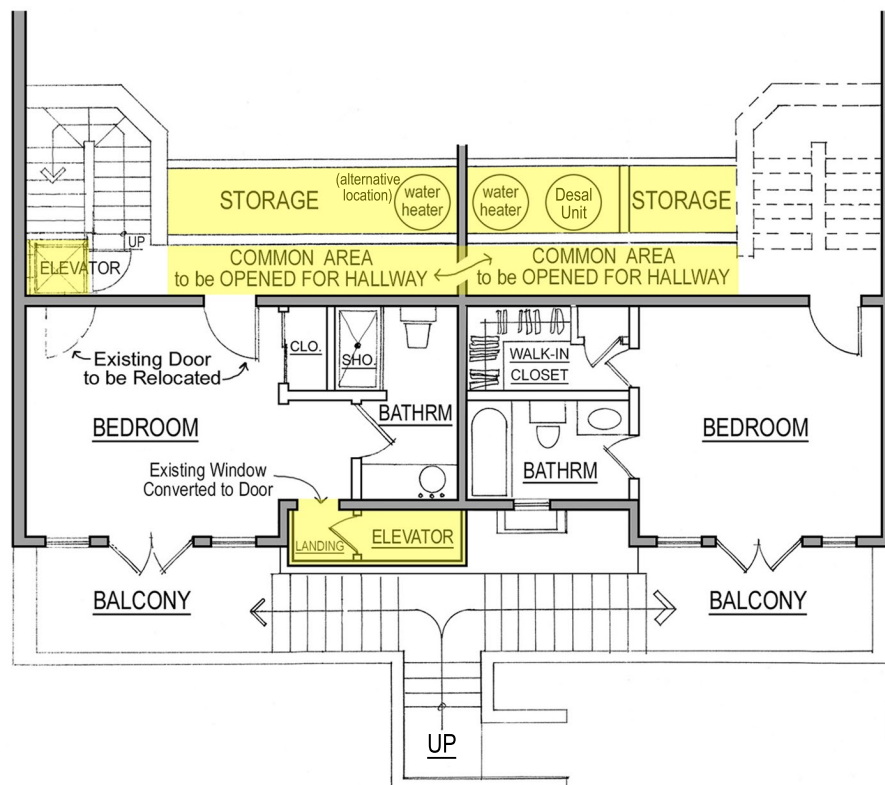
UPPER LEVEL

Elevator access reduced by 50% with access between the upper and lower levels located in Unit 82 only.

Reduced hallway access where trespassing pipes are located - if pipes remain. Full recovery of owner-recorded square footage if pipes are removed.

Two Units opened to allow free access between them.

Both Units remain autonomous as two separate Units.



LOWER LEVEL

Desalinization unit added to aid in the supply of fresh water to the Units.

Exterior elevator entry now in Unit 82 only. (50% reduction)

Unit 82 bathroom remodeled to accommodate the elevator.

Unit 81 bathroom now unchanged, a 50% reduction in overall bathroom remodel.