



# Tysman Law Firm

August 29, 2011

Sent via facsimile and U.S. Mail

Attn: Mr. Lutz  
Thesman Residential  
2250 S. Ellsworth Road, Unit 437  
Mesa, AZ 85209  
Fax: 480-380-8879

Re: Rip Davis v. Thesman Residential

Mr. Lutz:

This letter shall serve to inform you that this firm represents Mr. Rip Davis in connection with the claims he has against Thesman Residential (hereinafter "TR"), as more fully set forth below. Please be advised that you are hereby on formal notice that you must immediately cease and desist all threatening and harassing actions and comments directed toward Mr. Davis. Failure to do so will result in swift and aggressive legal action being taken against TR. You are also to direct any and all communication to my office, and NOT Mr. Davis directly.

Mr. Davis has done nothing wrong and does not deserve to be treated in the horrific and egregious harassing manner he has by the management at TR, including you personally Mr. Lutz. Should your harassment and threats not come to an abrupt end, Mr. Davis has every intention of taking legal action against you personally as well as TR.

In your letter to Mr. Davis dated July 20, 2011, you stated that he has "taken it upon [himself] to disturb the quiet enjoyment of Las Palmas Grand, its residents, and its employees." Mr. Davis has done nothing of that nature! Mr. Davis has simply brought to the attention of management what he, and a majority of the residents, feel is a decline in the way that Las Palmas Grand has been cared for since new management came into the picture last year.

It is true that "Las Palmas Grand is built on the foundation of providing quality resort style living at an affordable price," which is exactly what attracted residents such as Mr. Davis to your community. However, Mr. Davis expected Las Palmas Grand to retain that upscale feel and sense of pride that used to emanate throughout the community. This has been completely missing since new management took over. I find it ironic that you are threatening Mr. Davis for attempting to enforce your own rules and

regulations. I am certain that if a resident did not comply with your rules and regulations, you would swiftly attempt to punish them by demanding corrective action under threat of fine and lien on their property. Then again, based on my due diligence in this matter, it appears that you pick and choose who you harass. I will be conducting further investigation into whether the individuals you target are minorities or of some particular group, and if this matter is not resolved as more fully set forth below, I will certainly include claims for such discrimination as they are uncovered.

You allege that Thesman Residential takes “pride in [the] community, facilities, activities, and staff to ensure that each and every resident enjoys the lifestyle that they have come to expect and deserve.” While it is true that the residents have come to expect this certain type of lifestyle, they have not been able to enjoy or experience it since new management took over. It is despicable that TR calls themselves a management company, as evidence demonstrates that it clearly does not know how to manage. Since taking over last year, TR has single-handedly run the once beautiful Las Palmas Grand into the ground. It appears that the “pride” you mentioned is the last thing that you and the rest of management are concerned with. It seems that lining your pockets is top priority, and Mr. Davis’ pointing out of your failures has enraged you.

Thesman Communities’ “Architectural Standards and Controls” serves as the guidelines for what is acceptable and expected throughout the community. While the residents are still expected to comply with these regulations, the new management feels as though they can do whatever they like and completely disregard them. Herein is where the problem lies. Residents, such as Mr. Davis, are expected to have finely groomed yards that “shall be trimmed and free of debris and weeds at all times...[and] not... encroach onto neighboring properties....” However, management is allowed to let trees that are broken off hang down for weeks at a time, and dead bushes and flowers remain throughout community facilities. *Please see Landscape Pictures attached.* TR came to Las Palmas Grand to manage the facility and keep it in the beautiful condition it was in when they took over. TR, however, has not only failed to maintain the property, it has gone out of its way to destroy Las Palmas Grand! Perhaps an investigation should be launched into whether TR committed fraud against the homeowners.

Along with not keeping up the facility grounds, TR also singles out individuals and permits a select few residents to do whatever they want when it comes to keeping up with their own property. When these residents are not in compliance with the regulations, management no longer strictly enforces them in order for the community to look its absolute best. For instance, weeds, hanging trees, ant hills, dead bushes and more can be found throughout other residents’ yards, and nothing is done regarding them, except occasionally after other residents have complained. *See Landscape Pictures.*

The regulations further state that “[a]ll landscaping water runoff must be controlled by down spouts, gutters and river rock runs. No excessive water shall be

allowed to run into the streets at any time.” It is likely that this rule was created for residents due to the fact that water runoff is a nuisance, messy and unsightly to look at. Thus, it would seem as though management should also not allow the common grounds to overflow with water causing it to run off into the streets; nonetheless, they do. *Please see Street Flooding Pictures attached.* The regulations were put in place to allow Las Palmas Grand to be beautiful, pristine, and somewhere that people would enjoy living and be proud to call home. However, new managements’ complete and utter lack of care has definitely taken its toll on the community and has turned it into a place where residents not longer want to reside and are embarrassed to live at. TR’s uncontrollable actions have gone on too long now and need to end immediately. Mr. Davis will not be punished for attempting to bring these matters to your attention and have resolution.

Mr. Davis is only trying to help Las Palmas Grand and live in the community he was promised, and the way it had been when he first fell in love with it and moved in. However, every time he has tried to bring the less than acceptable conditions to managements’ attention, he has been ignored, screamed at or harassed. Mr. Davis is not the only resident at Las Palmas Grand who feels this way. Several others have conferred their same opinions regarding management’s lack of care and unacceptable actions. Management needs to shape-up their behavior and get their act together.

Your hostile demeanor toward Mr. Davis will not be tolerated, nor will your threats. Should this inappropriate behavior not cease immediately, Mr. Davis will take legal action against you and TR in addition to seeking attorneys’ fees and costs. Further, should Thesman Residential continue to not comply with their own Standards, and bring Las Palmas Grand back to the prestigious active adult community it was promised to be, Mr. Davis will seek redress in the form of legal action against it, including but not limited to the institution of a Superior Court Complaint for Damages which will include claims for Breach of Contract and Breach of Implied Covenant of Good Faith and Fair Dealing, among other causes of action.

Please be sure to confirm that you will cease and desist in your inappropriate and actionable conduct by September 1, 2011. Failure to do so will result in the next communication being the service of a complaint against you, Mr. Lutz, Thesman Residential, and any other individuals I determine have committed actionable conduct. I look forward to receipt of your confirmation and trust I have made my position clear!

Sincerely,

TYSMAN LAW FIRM, PLC

A handwritten signature in black ink, appearing to read "Kissandra L. Tysman", written over a horizontal line.

Kissandra L. Tysman