

Nancy Thal and Eric Gross (Roaring Fork Law Firm) re: Adesa Community

Thanks for coming in to meet yesterday. You requested I prepare a memo summarizing our discussions relating to the formation of an operating agreement for the Adesa Community LLC. I understand you are aiming to acquire real property in New Castle Colorado very shortly. I also understand you are assembling a number of initial investors who will become members of the LLC. It is important to point out from the outset that our firm will be representing the company and none of the individual members.

All members of the company will desire some information about the general terms of the partnership agreement. The following statements are based on our discussion.

- The project will be likely developed in phases over a period of years. Members will be expected to keep their investment in the company for a minimum period. We did not discuss whether members may be required to contribute additional capital later in the project. The members will definitely want to know if this may happen.
- The project will start utilizing existing cabins with some initial improvements. This will allow for some services and occupancy to occur relatively quickly. There will also be agricultural operations.
- Over the next year or two the company will apply for land use approvals to add density to the property to build additional dwelling units. All of the units will be available to members and others to become equity owners in the community.
- The form of equity ownership that the project will take is to be decided by the members after research and planning. It may be a cooperative housing development or a common interest ownership community or some other type of project yet to be determined.
- The Company shall have the option to purchase membership interests of those Members who decide to withdraw or must withdraw after the minimum investment period. These members will be repaid by the company in installments over 3 years. The Company and then other members will have a right of first refusal to purchase departing member's units. We will need to include a provision to determine the value of the Company at the time of sale, possible an appraisal provision.
- Prospective members who come on board after the initial membership is set must be approved by the members. A majority of the members will appoint company managers. The managers can be paid and don't necessarily need to be members. The managers will manage the operational affairs of the company and make day-to-day decisions regarding the company's business. There can be limits to what managers can do without authorization from the members.
- We discussed that smaller contributors to the community could be members of a nonprofit corporation whose mission is to support the education and operation of aspects of the community that provide a wider charitable community purpose. That way the Company will not face issue relating to too many small investors and the regulations that pertain to that situation.
- You also indicated a desire for members to have equal voting power.

I hope this memo helps you and your prospective members to understand the formation issues we discussed. I am happy to clarify any point from this memo or to communicate with any prospective member with questions.

Eric Gross
Whitsitt and Gross P.C., Carbondale, CO 81623