Exhibit 10

September 11, 2019

VIA FIRST CLASS MAIL, CERTIFIED MAIL and EMAIL

Steve and Sophy Yang
6660 East Mercer Way
Mercer Island, WA 98040

Re: Interference with Prescriptive Easement and Unlawful Obstruction

Dear Mr. and Mrs. Yang:

This firm represents Chris and Nicole Niederman, your neighbors to the south. The Niedermans own the property located at 6800 96th Ave. SE, Mercer Island, WA 98040. This letter concerns your pending building permit application, MI Project Number 1902-005. As you know, in addition to your property, the Niedermans and the four abutting property owners to the west all utilize a private access road/utility easement located between SE 68th St. and SE 67th St. for ingress and egress to their properties. The access road/easement is expressly identified on the face of the City subdivision approval.

Based on your construction plans, we understand you intend to alter the shared access road on the southwestern corner of your property so it will no longer align with the Niedermans' existing driveway. *See* **Attachment A**. We write to insist you marginally alter your construction plans to maintain the current location of the shared access road so it continues to align with the Niedermans' driveway access.

While you have the right to develop your property, this right is not absolute. The law does not allow you to develop your property to the immediate and obvious detriment of your neighbors, Chris and Nicole Niederman. As aptly noted by the Washington Supreme Court in *N. Bend Lumber Co. v. City of Seattle*, 116 Wash. 500, 505, 199 P. 988 (1921): "One owns real estate for the use he may make of it. Being the owner, he may make such use of it as he sees fit, **so long as he does not injure his neighbor**." (Emphasis added). You will run afoul of this basic principle if your development shifts the access road and forces the Niedermans to alter their existing driveway.

Furthermore, the Niedermans have acquired a prescriptive easement through the open and continuous use of your property to access their driveway. Any attempt to change the Niedermans' lane of ingress and egress to their property, or narrow the width of their driveway entrance, is an unlawful encroachment and interference with their prescriptive easement. A prescriptive easement is established when a person or persons use the land of another for ten or more years and show that (1) the land was used in an open and notorious manner; (2) the use was continuous and uninterrupted; (3)

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the use occurred over a uniform route, (4) the use was adverse to the landowner; and (5) the use occurred with the knowledge of such owner at a time when he was able in law to assert and enforce his rights. *Gamboa v. Clark*, 183 Wn.2d 38, 43, 348 P.3d 1214 (2015). A prescriptive right can be established "notwithstanding the fact that the owner of the servient estate and others who desired to go upon the road also used it." *Hendrickson v. Sund*, 105 Wash. 406, 410, 177 P. 808 (1919). The Niedermans satisfy each of these elements. For more than 15 years, the southwestern corner of your property, which is not part of the access easement, has been continuously and openly used for ingress and egress to 6800 96th Ave. SE.

As the servient estate owner, you cannot develop your property in a manner that interferes with the Niedermans' ability to access their driveway via the prescriptive easement. As noted in *Cole v. Laverty*, 112 Wn. App. 180, 184–85, 49 P.3d 924 (2002), "[a] servient estate owner has the right to use his or her land for any purpose **that does not interfere with enjoyment of the easement**…If the dominant estate has established use of an easement right of way, **obstruction of that use clearly interferes with the proper enjoyment of the easement**." (Emphasis added). "It follows that a dominant estate owner has the right to protect his rights in the easement by requiring the servient estate owner to remove any structure that could deny the easement owner his full easement rights." *Littlefair v. Schulze*, 169 Wn. App. 659, 666, 278 P.3d 218, 222 (2012).

Additionally, Washington law is well established that you cannot unilaterally relocate the Niedermans' prescriptive easement to align with your construction plans. *See State ex rel. Northwestern Elec. Co. v. Clark County Superior Court*, 28 Wn.2d 476, 488, 183 P.2d 802 (1947) (easement right, once granted and exercised, cannot be changed "at the pleasure of the grantee"); *Northwest Cities Gas Co. v. Western Fuel Co.*, 13 Wn.2d 75, 88, 123 P.2d 771 (1942) (an adverse use creates a prescriptive easement that cannot be terminated or abridged at the will of the servient estate owner); *White Bros. Crum Co. v. Watson*, 64 Wash. 666, 670, 117 P. 497 (1911) (cannot change character of servitude without consent).

Developing your property in a way that prevents the Niedermans from accessing their driveway will subject you to liability for unlawful obstruction and interference with the Niedermans' easement. We expect you will alter your construction plans to maintain the current location of the shared access road so that it continues to align with the Niedermans' driveway access. If you do not make this alteration and move forward with your current construction plans, the Niedermans will be forced to take legal action to (1) establish their prescriptive easement as a matter of law; and (2) obtain an injunction preventing you from obstructing and/or interfering with their continued use of the easement.

Please contact me if you have any questions regarding my clients' intentions. You may wish to forward this letter to legal counsel. If you retain an attorney, please let us know and we will work with that person.

Very truly yours,

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ATTACHMENT A

6650 ADDRESS
5' PED. ACCESS ESM'T. REC. NO. 9412229001
N 01°18'34" E 11.54'
N 88°16'06" W 143.92'
EX GRAVEL
EX GRAVEL
N 88°41'26" W 8.00'
MOVE
TP
20 4" SD
YANG RESIDENCE
6660 E. MERCER WAY
MERCER ISLAND, WA 98040
FF MAIN=32.0'
CO
LOT 4
TYPE 40 CB 40
WQ
RIM=35.4±
IE=33.4±
5' PED. ACCESS ESM'T. REC. NO. 9412229001
GARAGE = 35.8'±
TD 36
TYPE 40 CB 40
IE=34.3
EVAN'S ADDITION VOL. 101, PG(S) 91-92
6" SD 22
3" CURB
TURN AROUND ESM'T. REC. NO. 9412229001
ADJUST TP DURING CONST.
10' ACCESS/UTIL. ESM'T. REC. NO. 9412229001
TP
TP
11 2" WS
SSCO
EX DRIVEWAY
PROPOSED DRIVEWAY
TP
10' UTIL. ESM'T. REC. NO. 9412229001
CO
6" SD 22
4" FD 21
12" CMP STORM
Proposed Driveway
Existing Driveway
(3)10" MAP
N 88°41'26" W 131.8'± TO OHW
CAUTION!
EX GAS
6800 ADDRESS