

Minutes of Board of Directors Meeting
Taberna Homeowners Association
February-11, 2009

Board Members Attending:

Gene Peele	President
Linda Pickens	Secretary
Suzanne Forsythe	Treasurer
Steve Harman	Member at Large
Willis Vincent	Member at Large
Rick Layton	Member at Large

Absent: George McNulty, Vice President

Resident Attending:

Don Loudin, Abbington Woods representative..

Gene Peele called the meeting to order at 5:30 pm, there being a quorum present.

Minutes:

Gene Peele made a motion to approve the Minutes of the January 21, 2009 Meeting. A Motion was made by Suzanne Forsythe to approve the Minutes, which was seconded by Rick Layton. The Minutes were unanimously approved and accepted.

Treasurer's Report:

Suzanne Forsythe gave the following report:

Cash and Accounts Receivable: Total combined cash in the Master and Sub-Association checking accounts as of February 11, 2009, totaled \$201,252. Total Accounts Receivable as of February 11, 2009 totaled \$43,517, which represents approximately 150 owners who have failed to pay the 2009 dues by January 31, 2009. The Treasurer stated that she will be mailing out friendly reminder letters in mid-February to the delinquent homeowners. No late fee will be imposed if payment is received by the end of February. The Treasurer indicated collection totals to date are similar to the amount collected at this time in 2008.

Late Fees and Liens: Seven late fee invoices for Jan. 31, 2008 overdue accounts receivables were issued this past week. Eight liens totaling \$2,323 against five property owners continue to be outstanding.

Investments: A schedule of current Reserve investments was distributed to Board members prior to the meeting for review. The Finance Committee had discussed these investments at their meeting on Feb. 6, and made the following recommendations and comments for the Board's consideration:

- **Master Individual Depository Account:** The Finance Committee reviewed this account for possible partial reinvestment into a higher earning insured investment. The cash balance normally maintained in the checking accounts at BB&T early in the year is in excess of the normal FDIC insured limits, and it was thought prudent to remove some of the funds to other institutions until needed for expenses. The current rate of interest at the IDA is 1.25%. However, the current rates for the short term CD's into which the funds may be transferred are less than this rate. Therefore, the Committee recommended that the funds remain in the IDA account at this time. The Board concurred with this recommendation.
- **Master Operating Contingency Reserve Fund:** A \$5,022 Certificate of Deposit has been maintained at BB&T Bank rather than moving it to the investment firm of Scott & Stringfellow as the BB&T rate of return in October 2008 was competitive as compared to available returns at Scott & Stringfellow. The BB&T CD's interest rate fluctuates with the Treasury rates and currently pays .25% and matures April 1, 2009. The Finance Committee recommended that the CD be closed only if doing so did not incur any penalties. The Board discussed this and, given that the maturity date is less than two months away, decided to wait until the CD matures.
- **Reserve Deposits:** Treasurer requested authority to make the One Taberna Way quarterly deposit of \$1,580 during February instead of waiting until the end of March. The Treasurer also requested that the Master Replacement Reserve budgeted at \$10,000 be invested in February instead of waiting until December as has been the case in the past. The Board agreed to allow the Treasurer to make the early deposits.

The Treasurer advised the Board that other Certificate of Deposits are deposited in banks that could possibly fail at some point in the future. The Treasurer assured the Board that should any of the banks holding HOA CDs fail, it is likely the bank acquiring the failed bank's assets would pay off the CD balances or, the worst case scenario, that the FDIC would pay the HOA the amount of the CD resulting in no loss to the HOA.

The Treasurer will be reviewing past invoices to determine the cause for the year-end actual water costs being almost twice what was budgeted and will report back to the Board in March.

A Motion was made by Steve Harman to approve the year-end financial report, which was seconded by Rick Layton. The report was unanimously approved and accepted.

Open Items:

The Board reviewed a list of open/ongoing items to be addressed by the Board in 2009.

- 1) **Insurance Claim:** In response to a September, 2008 letter from a homeowner requesting reimbursement for tree damage to the house, the claim was forwarded to Taberna's insurance agent for handling. The Board received a response from the insurance company stating it will deny the claim due to the failure of the homeowner to provide the requested information to substantiate the claim. This matter is now considered closed.

- 2) Tree Removal Policy: With respect to the revised tree removal policy, Gene Peele confirmed with the Chairman of the Architectural Control Committee that, in light of the revised policy, the ACC had thoroughly reviewed its past decisions denying requests from homeowners to remove trees and found none requiring a change in their original decision. This matter is now considered closed.
- 3) Sediment Drainage: In response to a complaint from a homeowner regarding sediment drainage from an unimproved lot, a letter was sent to the owner of the lot requesting action be taken to curb the sediment drainage. In response to that letter, the owner took quick and effective steps to address the sediment drainage. There is an additional adjacent lot which is also having a sediment drainage issue, and Gene Peele will send that owner a letter requesting similar action be taken to curb the sediment run-off.
- 4) Fence Easement for Front Entrance: No action taken.
- 5) Budget Process Procedure. No action taken.
- 6) Landscaping Maintenance Contracts: Gene Peele will be attending a meeting of the Building and Grounds Committee on Feb. 18 in connection with the bidding and review of various landscaping maintenance contracts later this year. Suzanne Forsythe informed the Board that the Finance Committee desires to have better communication between the B&G and Finance Committees. Gene Peele stated that B&G is responsible for establishing the specific contract requirements and for reviewing the bids received. He noted that B&G reviews the bids received and makes a presentation to the Board regarding their recommendations and suggested it may be helpful for members of the Finance Committee to be present when that presentation is made. Suzanne Forsythe noted the Board's request last year to break up the one large contract into separate sections to enable smaller landscaping firms the opportunity to bid on the contract. She also noted there is no requirement to accept the lowest bid. A discussion ensued as to contract requirements in terms of insurance held by the landscaping companies and the specifics of the contract requirements.
- 7) Beautification Plan: Gene Peele reviewed prior Board Minutes to have a full understanding of the nature and extent of the Beautification Plan. He noted that the 2008 Board instructed the Building and Grounds Committee to focus its beautification efforts on the front entrance of Taberna. B&G has allocated approximately \$11,800 of its 2009 budget of \$20,000 for work on the two front islands and improvements along that portion of the roadway. Gene will receive specifics from B&G on its plans for the remainder of its expenditures when he attends their meeting on Feb. 18. The Board agreed that this would be the last year of funding the beautification project and that any future projects of this scope and expense should be undertaken only with input from residents. Polling residents as part of the Annual Meeting was discussed. Suzanne Forsythe requested an updated list of landscaping improvements for 2009 being considered by B&G under the Beautification Plan for review by the Finance Committee.

- 8) Proposal for Basketball Court: The Board decided that the residents be polled as to whether there is sufficient homeowner interest in having a half-court basketball court built to justify the cost. The Board agreed to have the President put an article in the Taberna Tribune and provide an email address where residents could vote on whether or not the Board should pursue this project.
- 9) Annual Community Picnic: The Board discussed whether to hold the Annual Community Picnic this year. Gene Peele will address the Community Picnic in his next President's Message to be published in the Taberna Tribune.
- 10) Community Building in Todd Denson Park: Constructing a community building in Todd Denson Park was brought up at the 2008 Annual Meeting. The Board concurred that, due to the lack of utilities at the site and the prohibitive cost of constructing such a building, the project will not be pursued. A motion to take no further action with respect to constructing a community building was made by Rick Layton, which was seconded Suzanne Forsythe. The motion was unanimously approved and accepted
- 11) HOA Office Lease: The Lease on the present HOA office expires on April 30, 2009. A Motion to negotiate and enter into another two-year lease was made by Steve Harman, which was seconded by Rick Layton. The Motion was unanimously approved and accepted.
- 12) Taberna Country Club/HOA Agreement on Landscaping: Gene Peele will follow-up with the HOA's attorney to determine the status of preparing an agreement concerning the landscaping improvements made on Country Club property.

Abbingtion Woods:

Don Loudin discussed with the Board the numerous Covenant violations observed by the Abbingtion Woods Representatives. It was determined that it is the responsibility of the Board to notify residents of Covenant violations rather than the responsibility of the Abbingtion Woods Representatives, and they will work with Willis Vincent to have written notification of the violations sent to the residents. The Representatives believe that, due to the high number of rental homes in the community, many of the residents have no knowledge that the Taberna Covenants exist. The Representatives want to send out a questionnaire to residents of Abbingtion Woods to survey their opinion of issues affecting Abbingtion Woods. Suzanne Forsythe requested a copy of the questionnaire be provided for review prior to its being sent out. The issue of possible City Code violations was also discussed and it was determined that those violations will be forwarded to the City for action. The Board was informed that Dave Myers and Don Loudin will be the Representatives responsible for providing input on the landscaping contract for Abbingtion Woods. Wayne Picciano has resigned as a representative of Abbingtion Woods.

Liens:

The Board requested that the Treasurer provide information on the current liens on properties for non-payment of the homeowner dues. It is the Treasurer's position that, in order to protect the privacy of the delinquent owners, the Board should not receive information identifying which

owners have liens recorded on their property; however, the Treasurer did provide for the Board's review a summary of the lien amounts and late fees without identifying the specific properties. The Board reviewed the lien amounts and discussed what steps can be taken to collect the amounts due.

Violations:

Willis Vincent provided the Board with a report on Covenant violations and the process and procedures by which they will be addressed in the future.

Review of 2009 Budget

The review of the 2009 Budget with respect to items funded was tabled until the next meeting.

The next meeting of the Board of Directors will be held on Wednesday, March 11, 2009 at 5:30 pm.

There being no further business before the Board, Suzanne Forsythe made a motion to adjourn, which was seconded by Steve Harman. The motion was approved, and the meeting adjourned at 7:13 pm.

Approved by the Board of Directors:

By: Gene D. Peele
Gene Peele, President

Date: 11 Mar 09

BACKGROUND

MATERIALS

FOR

MATTERS

DISCUSSED

AT BOARD

MEETING

FILE w/ Feb MIN.

Taberna HOA Board of Directors – Open Items
11 Feb 2009

Subject	Date Initial Discussion	Target Resolution Date	Responsible Person/Board	Comments	Completion Date
Vendetti Covenant Violations	2006	Feb 2009	Peele/BOD	Numerous violations of boat and trailer covenants. Fined \$100 by Adjudicatory Panel. Appeal denied by Board 21 Jan 09	TBD, awaiting payment
Etta Daniel's Insurance Claim, 101 Valais Ct	22 Sep 2008	Mar 2009	Peele/BOD	22 Sep ltr received from homeowner demanding reimbursement for tree damage to house. Issue turned over to insurance agent on 25 Sep 08. Insurance agent advised on 11 Feb 09 that Cincinnati Ins Co. will deny claim	TBD, awaiting insurance letter denying claim
Review of Tree Removal Decisions	Sep 2008	Spring 2009	Turner/ACC	Daniel's situation required a review of past decisions to limit HOA liability. ACC completed review and no further action required	Closed
Update THOA Web Site	2008	Summer 2009	Peele/Windham	Purpose is to improve community visibility via web updates. Status	TBD

				presented at 21 Jan 09 BOD mtg. Status update at Mar BOD meeting	
Digital Backup for THOA records	12/2006	Fall 2009	Peele/Costanzo	Need to plan for records backup	TBD
Drainage from Lots at 122 & 123 Friburg Rd.	Summer 2008	3/2009	Peele	Property owners were notified by Costanzo ltr on 8 Nov 08. Follow-up Ltrs sent in Jan 09. One lot has been repaired. Other lot owner to visit on 27 Feb to discuss required repairs. Another lot owner needs to be contacted as erosion also caused by 3 rd lot.	TBD, McLawhorn lot is closed
Fence Easement for Front Entrance	2006	September 2007 – TBD pending ECB decisions	Peele/BOD	Easement resolved with Fred Morton and Dunkin Donuts. ECB unwilling to talk until they make development decisions	TBD
Prepare Budget Process Procedure	Summer 2008	Apr 2009	Peele, BOD & Committees	Improve coordination and preparation of budget. Peele to draft proposal	Target early March for proposed procedure
Landscaping & Maintenance Contracts for 2010/2011	Jan 2009	Aug 2009, contracts awarded	BOD, Jim Wilson B&G, & sub-committees	Goal is to release bids and select contractors NLT end of Aug. Peele to meet with B&G 18 Feb	TBD

OTW owner request to glass their screened porch	Dec 2008	TBD	TBD/BOD	Need opinion on whether request violates covenants. Discuss at Feb Board meeting	TBD
Owner appeal of ACC decision to deny Pergola in backyard	Nov 2008	Apr 2009	Peele/BOD	Issue is golf course lot. Owner wants a waiver as the lot doesn't face course	TBD
Beautification Plan	January 2006	Dec 2009	THOA Board in conjunction with B & G	BOD implemented a 3-5 year plan for changes to beautify Taberna (ref. 2006 annual meeting). 2009 is projected to be the last year. Completed mods to Front Entrance, planted trees on Taberna Way, and Emmen Rd. Need to verify with B&G plans for 2009. Some owners want more done on Emmen Rd. Peele to meet with B&G 18 Feb	TBD, completion depends on 2009 Board review & decisions
Install half court basketball system at Todd Denson Park	Nov 08	TBD	Board volunteer needed to champion this proposed project	Proposed concept (\$13.9K) presented at Nov 08 Board mtg. Need to explore pros & cons and develop proposal for how to do it	TBD
Annual Community Picnic	Feb 09	Nov 09	TBD picnic committee	Board needs to confirm plan and form committee	Late Spring, committee identified

Subject	Date Initial Discussion	Target Resolution Date	Responsible Person/Board	Comments	Completion Date
Community Building in Todd Denson Park	Proposed at Dec 08 annual mtg	TBD	TBD	Need Board consensus on whether to form an exploratory committee	TBD
HOA Office Lease	Feb 09	TBD	Peele/Forsythe	Need to verify when lease needs extension	TBD
Taberna CC/HOA Agreement on landscaping	Fall 08	Mar 09	Peele	Lawyers drafting agreement for golf course to maintain landscaping purchased by HOA	Mar 09

Linda Pickens

From: "Gene Peele" <dgpeele@embarqmail.com>
To: "Gene Peele" <dgpeele@embarqmail.com>; "George McNulty" <mmcnulty@suddenlink.net>;
"Linda Pickens" <lindapickens676@suddenlink.net>; "Rick Layton" <ricklayton@msn.com>;
"Steve Harman" <steve_harman@suddenlink.net>; "Suzanne Forsythe"
<forsythenc@embarqmail.com>; "Willis Vincent" <wsvincent@aol.com>
Cc: "Turner, Dick" <tbrhin1@embarqmail.com>
Sent: Wednesday, February 18, 2009 1:52 PM
Subject: Insurance Co Denies Tree Damage Claim

We have received a letter from The Cincinnati Insurance Company that denies the claim of Etta Daniel for damages due to wrongdoing by the HOA. The following quote is significant: "This being the case, it is the opinion of The Cincinnati Insurance Company that Taberna HOA was not negligent nor liable for your damages".

This decision creates a huge obstacle for Daniel to overcome should she elect to undertake litigation against us and hopefully closes this issue.

Tx, Gene

No virus found in this incoming message.

Checked by AVG - www.avg.com

Version: 8.0.237 / Virus Database: 270.10.25/1957 - Release Date: 02/17/09 07:07:00

3/27/2009

MEMO:

Linda

TO: BOARD OF DIRECTORS
FROM: SUZANNE FORSYTHE, Treas. Feb. 07, 2009
RE: 4th Qtr. 2008 Taberna HOA & Subs. Financial Reports

Enclosed for your initial review are the financial reports for the 4th qtr 2008 for Taberna Master and all of the Sub-Assns. The Finance Comm. has reviewed these and have three comments (questions) that I said I would forward to the Bd. Any questions you have, please email me now so that I can have responses ready on Wed.

FINANCE COMM. comments/question:

- 1) 2008 Master Expense for Accounting was considerably higher than expected. (I will be reviewing the actual invoices again to see if I can determine any particular area that caused the Budget to be so much lower than actual.)
- 2) 2008 Master Water expense was very much higher than budgeted. (I will be reviewing the actual invoices compared with 2007 to see if I can find any particular reason other than the rate increases during 2008.)
- 3) 2009: Comm. is requesting info as to exactly what is planned for the Beautification \$20,000 during 2009. (This is an item that the Board is waiting for info from B&G.)

NOTES:

MASTER: BALANCE SHEET: Ending cash is higher than what we really need to have carried over into the new year. Fin.Comm. & I will be suggesting that some of the excess be utilized in the 2010 budget. Interest rates continue to be low and will impact the 2009 earnings. Accts. Rec.: most of these are for those that we have liens, including the late fees. As stated earlier, the BOD will have to decide whether to take legal action on those near expiration.

REVENUE/EXPENSES: Total income was less than expected even allowing for the unbudgeted late fee invoicing. However, overall expenditures were less than budgeted which allowed us to be better off in total for the year.

Individual expense line items: As mentioned above, Water was way over budget partially due to rate increases. Also, Accounting was higher, but when combined with the other professional service (Legal), it came into line. Misc/Web/Mktg expense netted out for the year much lower than expected. This line item is a sort of catch all and includes the picnic costs as well as income from ticket sales & contributions. Insurance continued under budget as we were not hit with an increase upon renewal in 2008. Operations Reserves were funded at \$13,000 per request of the 2008 Board instead of budgeted \$10,000 since we expected to have sufficient cash at 12/31/08. This Reserve is now considered fully funded.

ABBINGTON: No particular items to note. Came in pretty much as expected.

BOLEYN: They would have ended the year as budgeted except for the unplanned usage of Reserve Funds for repaving the alleyway.

LANDINGS: Nothing to point out, came in on target.

OTW: Even though some 2007 money was allocated into the 2008 budget, OTW continued to have their ending cash increase. It is now over \$15,000. The Fin. Comm. will work with the OTW Comm. for the 2010 budget to utilize some of this excess. Landscaping expenditures were less than planned, but those savings were used up by the early painting of two units expended from the Reserves.

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Taberna Master Homeowners Assoc., Inc.

Balance Sheet

December 31, 2008

ASSETS

Assets		
BB&T Checking Acct #2531	\$ 9,100.89	
BB&T IDA Acc #5103	<u>15,514.56</u>	
		24,615.45
Scott MM Replacements	1,155.50	
Scott CD Replac. Reserves	82,000.00	
Scott MM Emerg.. Reserve	2,544.63	
Scott CD Emerg. Reserves	42,000.00	
BB&T CD Emerg.. Reserves	<u>5,022.43</u>	
		132,722.56
Petty Cash	<u>200.00</u>	
		200.00
Dues Receivable	1,135.00	
Bushhogging Receivables	202.00	
Spec Assessment Receivable	1,812.00	
Prepaid Expenses	<u>2,152.44</u>	
		<u>5,301.44</u>
Total Assets	\$	<u><u>162,839.45</u></u>

LIABILITIES AND FUND BALANCE

LIABILITIES		
Compliance Deposit Payable	\$ <u>2,000.00</u>	
		2,000.00
FUND BALANCE		
Beginning Balance	126,890.40	
Net Transfer/Replace. Reserve	14,424.00	
NetTransfer/Operations Reserve	13,000.00	
Current Year Activity	<u>6,525.05</u>	
		<u>160,839.45</u>
Total Liability and Fund Balance	\$	<u><u>162,839.45</u></u>

See Accountant's Report.

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Taberna Master Homeowners Association, Inc.
A Division of Taberna Master Homeowners Association, Inc.
Statement of Revenues, Expenses, and Changes in Fund Balance
For the Three Month and Year-to-Date Periods Ended December 31, 2008
With Comparative Budget Amounts

	Actual Current Quarter	Budgeted Current Quarter	Actual Year-to-Date	Budgeted Year-to-Date	Budget Year 2008
Revenues					
Dues	\$ 129.75	\$ 0.00	\$ 183,104.75	\$ 182,916.00	\$ 182,916.00
Spec. Assessments	0.00	0.00	100.00	0.00	0.00
Interest Inc-Reserves	525.25	630.00	2,227.70	3,545.00	3,545.00
Interest Inc-Other	328.62	400.00	2,801.97	2,600.00	2,600.00
Misc. Income	0.00	0.00	0.00	0.00	0.00
Late Fees/Fines	480.00	0.00	3,480.00	0.00	0.00
Miscellaneous Taxable	0.00	0.00	0.00	0.00	0.00
2007 Fund Bal. Alloc.	0.00	0.00	0.00	3,968.00	3,968.00
Total Revenues	<u>1,463.62</u>	<u>1,030.00</u>	<u>191,714.42</u>	<u>193,029.00</u>	<u>193,029.00</u>
Expenses					
Landscaping - Contracts	23,139.00	22,810.00	89,670.00	91,240.00	91,240.00
Bldg/Grounds-Mtnce-Misc	5,867.84	3,750.00	14,989.45	15,000.00	15,000.00
Water Drainage mgmt	0.00	0.00	0.00	0.00	0.00
Lake Aquatic mgmt	0.00	0.00	0.00	400.00	400.00
Beautification Project	6,480.50	0.00	20,171.25	20,000.00	20,000.00
Utilities - Water	1,418.43	600.00	6,109.70	3,500.00	3,500.00
Utilities - Electric	815.86	650.00	2,525.67	2,600.00	2,600.00
Mailboxes/Posts	0.00	0.00	5.62	0.00	0.00
Lot Front Mtnce	0.00	0.00	(25.50)	0.00	0.00
Bushhogging	0.00	0.00	185.00	0.00	0.00
Crime Watch	0.00	100.00	219.71	500.00	500.00
Administrative	816.12	875.00	2,358.53	3,500.00	3,500.00
Misc/Web/Mktg	780.57	1,100.00	686.66	4,500.00	4,500.00

See Accountant's Report

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Taberna Master Homeowners Association, Inc.
A Division of Taberna Master Homeowners Association, Inc.
Statement of Revenues, Expenses, and Changes in Fund Balance
For the Three Month and Year-to-Date Periods Ended December 31, 2008
With Comparative Budget Amounts

	Actual Current Quarter	Budgeted Current Quarter	Actual Year-to-Date	Budgeted Year-to-Date	Budget Year 2008
Accounting	1,346.00	1,575.00	7,443.00	6,300.00	6,300.00
Legal	2,790.90	1,500.00	4,199.90	6,000.00	6,000.00
Insurance	0.00	0.00	4,155.00	5,200.00	5,200.00
Rent	975.00	975.00	3,700.00	3,700.00	3,700.00
Annual Meeting	644.67	1,200.00	644.67	1,200.00	1,200.00
Write Off Bad Debt	0.00	0.00	0.00	0.00	0.00
Taxes	0.00	0.00	726.71	1,420.00	1,420.00
Replacement Reserves	14,424.00	14,424.00	14,424.00	14,424.00	14,424.00
Repl Reserve Usage	0.00	0.00	0.00	0.00	0.00
Net Transfer of Rep Res	0.00	0.00	0.00	0.00	0.00
Operations Cont. Fund	8,000.00	5,000.00	13,000.00	10,000.00	10,000.00
Optn Resvr Usage	0.00	0.00	0.00	0.00	0.00
Net Transfr of OptnRes	0.00	0.00	0.00	0.00	0.00
Total Expenses	<u>67,498.89</u>	<u>54,559.00</u>	<u>185,189.37</u>	<u>189,484.00</u>	<u>189,484.00</u>
Excess (Deficiency) of Revenues over Expenses	\$ <u>(66,035.27)</u>	\$ <u>(53,529.00)</u>	6,525.05	\$ <u>3,545.00</u>	\$ <u>3,545.00</u>
Net Transfers to Replac. Res.			14,424.00		
Net Transfers to Oper. Res.			13,000.00		
Beginning Fund Balance			<u>126,890.40</u>		
Ending Fund Balance			\$ <u>160,839.45</u>		

See Accountant's Report

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Abbington Woods

Balance Sheet

December 31, 2008

ASSETS

Assets		
BB&T Checking	\$ 1,937.17	
		1,937.17
Scott MM Reserves	134.98	
Scott CD Reserves	9,000.00	
		9,134.98
Dues Receivable	724.00	
		724.00
Total Assets	\$	<u>11,796.15</u>

LIABILITIES AND FUND BALANCE

LIABILITIES		
		0.00
FUND BALANCE		
Beginning Balance	\$ 8,651.26	
Transfer/Fence Reserve	3,100.00	
Current Year Activity	44.89	
		<u>11,796.15</u>
Total Liability and Fund Balance	\$	<u>11,796.15</u>

See Accountant's Report.

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Abbingdon Woods
A Division of Taberna Master Homeowners Association, Inc.
Statement of Revenues, Expenses, and Changes in Fund Balance
For the Three Month and Year-to-Date Periods Ended December 31, 2008
With Comparative Budget Amounts

	Actual Current Quarter	Budgeted Current Quarter	Actual Year-to-Date	Budgeted Year-to-Date	Budget Year 2008
Revenues					
Dues	\$ 11,237.50	\$ 11,237.00	\$ 44,950.50	\$ 44,950.00	\$ 44,950.00
Misc. Income	0.00	0.00	0.00	0.00	0.00
Interest Inc.-Reserves	7.70	66.00	112.35	270.00	270.00
Interest Inc-Other	0.00	0.00	0.00	0.00	0.00
2007 Fund Bal. Alloc.	0.00	0.00	0.00	0.00	0.00
Total Revenues	<u>11,245.20</u>	<u>11,303.00</u>	<u>45,062.85</u>	<u>45,220.00</u>	<u>45,220.00</u>
Expenses					
Landscaping - Maintenance	6,820.00	10,230.00	40,920.00	40,920.00	40,920.00
Accounting	195.00	195.00	780.00	780.00	780.00
Administration	59.87	40.00	217.96	150.00	150.00
Miscellaneous Expense	0.00	0.00	0.00	0.00	0.00
Budgeted Res: - Fence	<u>2,400.00</u>	<u>3,100.00</u>	<u>3,100.00</u>	<u>3,100.00</u>	<u>3,100.00</u>
Total Expenses	<u>9,474.87</u>	<u>13,565.00</u>	<u>45,017.96</u>	<u>44,950.00</u>	<u>44,950.00</u>
Excess (Deficiency) of Revenues over Expenses	\$ <u>1,770.33</u>	\$ <u>(2,262.00)</u>	44.89	\$ <u>270.00</u>	\$ <u>270.00</u>
Transfer to Fence Reserve			3,100.00		
Beginning Fund Balance			<u>8,651.26</u>		
Ending Fund Balance			\$ <u>11,796.15</u>		

See Accountant's Report

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Boleyn Creek Villas

Balance Sheet

December 31, 2008

ASSETS

Assets		
BB&T Checking	\$ 805.38	
		805.38
Scott MM Reserves	1,089.11	
Scott CD Reserves	2,000.00	
		3,089.11
		0.00
		0.00
Total Assets	\$ 3,894.49	

LIABILITIES AND FUND BALANCE

LIABILITIES

0.00

FUND BALANCE

Beginning Balance	\$ 5,184.64
Transfer/ Alley Reserves	805.00
Current Year Activity	(2,095.15)

3,894.49

Total Liability and Fund Balance \$ 3,894.49

See Accountant's Report.

Boleyn Creek Villas
A Division of Taberna Master Homeowners Association, Inc.
Statement of Revenues, Expenses, and Changes in Fund Balance
For the Three Month and Year-to-Date Periods Ended December 31, 2008
With Comparative Budget Amounts

	Actual Current Quarter	Budgeted Current Quarter	Actual Year-to-Date	Budgeted Year-to-Date	Budget Year 2008
Revenues					
Dues	\$ 0.00	\$ 0.00	\$ 15,709.00	\$ 15,709.00	\$ 15,709.00
Special Assessment	0.00	0.00	0.00	0.00	0.00
Interest Income - Reserves	4.82	43.00	81.45	113.00	113.00
Interest Income - Other	1.48	5.00	9.02	20.00	20.00
Miscellaneous Income	0.00	0.00	0.00	0.00	0.00
Total Revenues	<u>6.30</u>	<u>48.00</u>	<u>15,799.47</u>	<u>15,842.00</u>	<u>15,842.00</u>
Expenses					
Landscaping - Maintenance	3,585.00	3,585.00	14,340.00	14,340.00	14,340.00
Accounting	125.00	125.00	500.00	500.00	500.00
Administration	39.34	21.00	84.62	84.00	84.00
Miscellaneous Exp.	0.00	0.00	0.00	0.00	0.00
Usage of Reserves	0.00	0.00	2,165.00	0.00	0.00
Budgeted Reserve - Alley	805.00	805.00	805.00	805.00	805.00
Total Expenses	<u>4,554.34</u>	<u>4,536.00</u>	<u>17,894.62</u>	<u>15,729.00</u>	<u>15,729.00</u>
Excess (Deficiency) of Revenues over Expenses	\$ <u>(4,548.04)</u>	\$ <u>(4,488.00)</u>	(2,095.15)	\$ <u>113.00</u>	\$ <u>113.00</u>
Transfer to Reserve			805.00		
Beginning Fund Balance			<u>5,184.64</u>		
Ending Fund Balance			\$ <u>3,894.49</u>		

OK
JF

Taberna Landing

Balance Sheet

December 31, 2008

ASSETS

Assets		
BB&T Checking	\$ 1,507.67	
		1,507.67
Scott MM Reserves	1,136.75	
Scott CD Reserves	7,000.00	
BB&T CD Reserves	4,878.68	
		13,015.43
		0.00
Total Assets	\$ 14,523.10	

LIABILITIES AND FUND BALANCE

LIABILITIES		0.00
FUND BALANCE		
Beginning Balance	\$ 9,932.22	
Transfer/ Reserves	4,320.00	
Current Year Activity	270.88	
		14,523.10
Total Liability and Fund Balance	\$ 14,523.10	

See Accountant's Report.

OK
SPR

Taberna Landing
A Division of Taberna Master Homeowners Association, Inc.
Statement of Revenues, Expenses, and Changes in Fund Balance
For the Three Month and Year-to-Date Periods Ended December 31, 2008
With Comparative Budget Amounts

	Actual Current Quarter	Budgeted Current Quarter	Actual Year-to-Date	Budgeted Year-to-Date	Budget Year 2008
Revenues					
Dues	\$ 0.00	\$ 0.00	\$ 8,130.00	\$ 8,130.00	\$ 8,130.00
Spec. Assessments	0.00	0.00	0.00	0.00	0.00
Interest Inc-Reserves	175.04	1.00	191.92	5.00	5.00
Misc. Income	0.00	0.00	0.00	0.00	0.00
Total Revenues	<u>175.04</u>	<u>1.00</u>	<u>8,321.92</u>	<u>8,135.00</u>	<u>8,135.00</u>
Expenses					
Landscaping - Maintenance	765.00	843.00	3,316.00	3,370.00	3,370.00
Accounting	95.00	95.00	380.00	380.00	380.00
Administration	1.68	10.00	35.04	60.00	60.00
Miscellaneous Expense	0.00	0.00	0.00	0.00	0.00
Budgeted Res. - Road	4,320.00	4,320.00	4,320.00	4,320.00	4,320.00
Total Expenses	<u>5,181.68</u>	<u>5,268.00</u>	<u>8,051.04</u>	<u>8,130.00</u>	<u>8,130.00</u>
Excess (Deficiency) of Revenues over Expenses	\$ <u>(5,006.64)</u>	\$ <u>(5,267.00)</u>	270.88	\$ <u>5.00</u>	\$ <u>5.00</u>
Transfer to Road Reserve			4,320.00		
Beginning Fund Balance			<u>9,932.22</u>		
Ending Fund Balance			\$ <u>14,523.10</u>		

See Accountant's Report

OK
SF

One Taberna Way

Balance Sheet

December 31, 2008

ASSETS

Assets		
BB&T Checking	\$ 15,264.63	
		15,264.63
Scott MM Reserves	820.11	
Scott CD Reserves	30,000.00	
BB&T CD Reserves	8,349.34	
		39,169.45
Dues Receivable	500.00	
		500.00
Total Assets	\$	<u>54,934.08</u>

LIABILITIES AND FUND BALANCE

LIABILITIES		
Due to Taberna Master HOA	\$ 20.00	
		20.00
FUND BALANCE		
Beginning Balance	49,180.69	
Transfer/Ext Painting Res.	5,760.00	
Current Year Activity	(26.61)	
		54,914.08
Total Liability and Fund Balance	\$	<u>54,934.08</u>

See Accountant's Report.

OK
OK

One Taberna Way
A Division of Taberna Master Homeowners Association, Inc.
Statement of Revenues, Expenses, and Changes in Fund Balance
For the Three Month and Year-to-Date Periods Ended December 31, 2008
With Comparative Budget Amounts

	Actual Current Quarter	Budgeted Current Quarter	Actual Year-to-Date	Budgeted Year-to-Date	Budget Year 2008
Revenues					
Dues	\$ 8,000.00	\$ 8,000.00	\$ 32,000.00	\$ 32,000.00	\$ 32,000.00
Special Assessments	0.00	0.00	0.00	0.00	0.00
Interest Income - Reserves	264.66	266.00	778.69	724.00	724.00
Interest Income - Reserves MM	0.00	4.00	9.55	16.00	16.00
Miscellaneous	0.00	0.00	0.00	0.00	0.00
07 Fund Bal Allocated	0.00	0.00	0.00	1,185.00	1,185.00
Total Revenues	<u>8,264.66</u>	<u>8,270.00</u>	<u>32,788.24</u>	<u>33,925.00</u>	<u>33,925.00</u>
Expenses					
Landscaping - Lawn/Shrubs	10,102.50	5,850.00	22,497.50	26,580.00	26,580.00
Accounting	130.00	130.00	520.00	520.00	520.00
Administration	19.86	25.00	237.35	325.00	325.00
Miscellaneous	0.00	0.00	0.00	0.00	0.00
Budgeted Res: Pntg/Roof	1,440.00	1,440.00	5,760.00	5,760.00	5,760.00
Usage of Reserve	0.00	0.00	3,800.00	0.00	0.00
Total Expenses	<u>11,692.36</u>	<u>7,445.00</u>	<u>32,814.85</u>	<u>33,185.00</u>	<u>33,185.00</u>
Excess (Deficiency) of Revenues over Expenses	\$ <u>(3,427.70)</u>	\$ <u>825.00</u>	(26.61)	\$ <u>740.00</u>	\$ <u>740.00</u>
Transfer to Pntg/Roof Reserve			5,760.00		
Beginning Fund Balance			<u>49,180.69</u>		
Ending Fund Balance			\$ <u>54,914.08</u>		

See Accountant's Report

OK
SF

RESERVE INVESTMENTS @ January 31, 2009

	Face Val.	Interest rate	Due Date	Interest paid
MASTER REPLACEMENT				
SCOTT/Stringfellow				
\$MKT	\$1,240	0.30%		monthly
CD:				
GoldmanSachs USA	\$16,000	3.60%	10/15/09	maturity
Columbia River Bk-Tx	\$26,000	3.75%	11/06/09	monthly
Lehman Bros CommI.Bk.	\$20,000	4.05%	02/08/10	SemiAnnl
Wachovia Bk-Tx	\$20,000	4.30%	08/16/10	SemiAnnl
EMERGENCY				
BB&T: CD Treasury	\$5,022	0.25%	04/01/09	
SCOTT/Stringfellow				
\$MKT	\$2,599	0.30%		monthly
CD:				
Signature Bk - Ark	\$20,000	3.15%	03/09/09	monthly
CIT Bank - Utah	\$8,000	4.05%	04/16/10	SemiAnnl
CapOne-USA	\$14,000	4.05%	05/05/10	SemiAnnl
ABBINGTON				
SCOTT/Stringfellow:				
\$MKT	\$147	0.30%		monthly
CD:				
Lehman Bros CommI.Bk	\$5,000	4.05%	02/08/10	SemiAnnl
Comm.Bk of Nevada	\$4,000	3.50%	12/22/10	monthly
BOLEYN				
SCOTT/Stringfellow				
\$MKT	\$1,089	0.30%		monthly
CD:				
Capital One Bk USA	\$1,000	3.60%	10/15/09	maturity
Lehman Bros ComI Bk UT	\$1,000	4.05%	02/08/10	SemiAnnl
LANDINGS				
BB&T CD	\$4,879	3.20%	09/16/09	
SCOTT / Stringfellow				
\$MKT	\$1,142	0.30%		monthly
CD:				
Bank United	\$2,000	3.15%	02/09/09	monthly
Wright Express Bk-Utah	\$5,000	2.95%	04/17/09	maturity
ONE TABERNA WAY				
BB&T CD	\$8,349	3.20%	09/16/09	
SCOTT / Stringfellow				
\$MKT	\$820	0.30%		monthly
CD				
CapMark-Utah	\$15,000	3.70%	08/06/09	maturity
GoldmanSachs Bk-USA	\$3,000	3.60%	10/15/09	maturity
Lehamn Bros ComI.Bk	\$10,000	4.05%	02/08/10	SemiAnnl
Chevy Chase - Va	\$2,000	4.00%	09/24/10	SemiAnnl

Linda Pickens

From: "Robert A forsythe" <forsythenc@embarqmail.com>
To: "Linda Pickens" <lindapickens676@suddenlink.net>
Cc: "Gene Peele" <dgpeele@embarqmail.com>; "Willis Vincent" <WsVincent@aol.com>; "George McNulty" <bmcnulty2@suddenlink.net>; "Rick Layton" <ricklayton@msn.com>; "Steve Harman" <steve_harman@suddenlink.net>
Sent: Wednesday, February 18, 2009 10:57 AM
Subject: Re: Visiting Homeowners With Liens

Linda: Yes, it is a good idea to run this past the attorney just to be sure of what we can do or not. The attorney should be advised that the HOA (meaning me as Treasurer) has had only written contact with these individuals thru the normal system for accts. rec. collection. A letter signed by me as Treasurer accompanies each late fee invoice whether the late fee is for a property with a lien against it or one that does not have a lien. The properties with liens on them thereby have received many, many letters. The letters are fairly standard and provide the account balances as most have addl. amounts owing beyond the liens. I also include a paragraph that encourages them to contact me to arrange for a payment plan if the full amount is not able to be paid all at once. Once a payment plan is agreed upon between the debtor and me, and as long as it is followed, late fees stop. This has worked well with other accounts. Unfortunately, these five have not responded to any correspondence.

The personal visit as suggested was because I cannot find phone numbers for them. (note: I have recently discovered one of the phone numbers, but have not tried to call it.) I look at the personal visit as a way to see what they have to say before more drastic measures are taken. My letters to these individuals do remind them of more drastic legal steps. There may be some justification in their minds as to why they have not paid, but without their response to my letters we just do not know. Suzanne Forsythe 2/18/09

----- Original Message -----

From: Linda Pickens
To: Gene Peele
Cc: Willis Vincent , George McNulty , Rick Layton , Steve Harman , Suzanne Forsythe
Sent: Tue, 17 Feb 2009 12:37:57 -0500 (EST)
Subject: Visiting Homeowners With Liens

Gene,

With respect to the issue of liens, I've now had the opportunity to read the statute provided by Suzanne at the 2/11 meeting concerning privacy. I'm concerned that personally visiting the homeowners having liens could be considered "harassment" under NC statutes. To err on the side of caution, you may want to run this by our attorney before visiting the homes just to be certain that it acceptable to do

3/27/2009

so under the law.

Thanks,

Linda

No virus found in this incoming message.

Checked by AVG - www.avg.com

Version: 8.0.237 / Virus Database: 270.10.25/1957 - Release Date: 02/17/09 07:07:00

3/27/2009

Linda Pickens

From: "Gene Peele" <dgpeelee@embarqmail.com>
To: "Linda Pickens" <lindapickens676@suddenlink.net>
Sent: Tuesday, February 17, 2009 2:30 PM
Subject: RE: Visiting Homeowners With Liens

Thanks Linda,

I will definitely get some advice before we take the next step.

Gene

From: Linda Pickens [mailto:lindapickens676@suddenlink.net]
Sent: Tuesday, February 17, 2009 12:38 PM
To: Gene Peele
Cc: Willis Vincent; George McNulty; Rick Layton; Steve Harman; Suzanne Forsythe
Subject: Visiting Homeowners With Liens

Gene,

With respect to the issue of liens, I've now had the opportunity to read the statute provided by Suzanne at the 2/11 meeting concerning privacy. I'm concerned that personally visiting the homeowners having liens could be considered "harassment" under NC statutes. To err on the side of caution, you may want to run this by our attorney before visiting the homes just to be certain that it acceptable to do so under the law.

Thanks,
Linda

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Version: 8.0.237 / Virus Database: 270.10.25/1957 - Release Date: 02/17/09 07:07:00

3/27/2009

Linda Pickens

From: <WsVincent@aol.com>
 To: <dgpeele@embarqmail.com>
 Cc: <forsythenc@embarqmail.com>; <lindapickens676@suddenlink.net>
 Sent: Wednesday, February 18, 2009 3:16 PM
 Subject: Re: Visiting Homeowners With Liens

Gene: Can you stuff me in your baggage? I need to get away. Have a great time.

By the way, Linda has an excellent point--harassment. When I worked in social service for a brief period of time ten years ago, we made home visits after *all* attempts to reach a client failed. These folks were mandated to attend training classes in order to receive welfare payments. When I knocked on the door accompanied by another member of the agency, I felt very uncomfortable and often worried about violating someone's rights. More importantly, I wondered if I might be putting myself in danger. In most cases, these unannounced visits were uneventful; however, in a few situations, the clients cursed us and demanded that we leave immediately. You never know what you may come up against when you trespass.

Can't our lawyer contact them on the firm's stationery? Sometimes people will react to an attorney but pay no attention to us because they think we have no authority.

Willis

In a message dated 2/18/2009 11:00:01 A.M. Eastern Standard Time, dgpeele@embarqmail.com writes:

I will contact our attorney before I leave for Hawaii tomorrow (somebody has to drink Mai Tais from the barefoot bar while watching sunset -- my idea of a cheaper, less painful stimulus of our economy). I will be back in town on the 5th of Mar.

Tx, Gene

From: Robert A forsythe [mailto:forsythenc@embarqmail.com]
 Sent: Wednesday, February 18, 2009 9:58 AM
 To: Linda Pickens
 Cc: Gene Peele; Willis Vincent; George McNulty; Rick Layton; Steve Harman
 Subject: Re: Visiting Homeowners With Liens

Linda: Yes, it is a good idea to run this past the attorney just to be sure of what we can do or not. The attorney should be advised that the HOA (meaning me as Treasurer) has had only written contact with these individuals thru the normal system for accts. rec. collection. A letter signed by me as Treasurer accompanies each late fee invoice whether the late fee is for a property with a lien against it or one that does not have a lien. The properties with liens on them thereby have received many, many letters. The letters are fairly standard and provide the account balances as most have addl. amounts owing beyond the liens. I also include a paragraph that encourages them to contact me to arrange for a payment plan if the full amount is not able to be paid all at once. Once a payment plan is agreed upon between the debtor and me, and as long as it is followed, late fees stop. This has worked well with other accounts. Unfortunately, these five have not responded to any correspondence.

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----- Original Message -----

From: Linda Pickens
 <lindapickens676@suddenlink.net> To: Gene Peele
 <dgpeele@embarqmail.com> Cc: Willis Vincent <wsvincent@aol.com>, George McNulty <strongmcnulty2@suddenlink.net>, Rick Layton
 <ricklayton@msn.com>, Steve Harman <steve_harman@suddenlink.net>, Suzanne Forsythe
 <forsythenc@embarqmail.com> Sent: Tue, 17 Feb 2009 12:37:57 -0500 (EST)
 Subject: Visiting Homeowners With Liens

Gene,

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Thanks,

Linda

</forsythenc@embarqmail.com></steve_harman@suddenlink.net></ricklayton@msn.com></bmcruity2@suddenlink.net></wsvincent@aol.com></dgpeele@embarqmail.com></lindapickr

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Version: 8.0.237 / Virus Database: 270.10.25/1957 - Release Date: 02/17/09 07:07:00

3/27/2009

Linda Pickens

From: "Gene Peele" <dgpeele@embarqmail.com>
To: "Robert A forsythe" <forsythenc@embarqmail.com>; <WsVincent@aol.com>
Cc: <lindapickens676@suddenlink.net>
Sent: Thursday, February 19, 2009 10:11 AM
Subject: RE: Visiting Homeowners With Liens

I have requested our attorney Beth to give us her recommendations on how best to proceed.

Tx, Gene

From: Robert A forsythe [mailto:forsythenc@embarqmail.com]
Sent: Thursday, February 19, 2009 9:02 AM
To: WsVincent@aol.com
Cc: dgpeele@embarqmail.com; lindapickens676@suddenlink.net
Subject: Re: Visiting Homeowners With Liens

Willis: Having the attorney write a letter to the property owner is a good idea even though it will cost us in attorney fees. I like it better than showing up on their doorstep as the next step. Wish I had thought of it first. Suzanne F 2/19/09

----- Original Message -----

From: WsVincent@aol.com
To: dgpeele@embarqmail.com
Cc: forsythenc@embarqmail.com, lindapickens676@suddenlink.net
Sent: Wed, 18 Feb 2009 14:16:36 -0500 (EST)
Subject: Re: Visiting Homeowners With Liens

Gene: Can you stuff me in your baggage? I need to get away. Have a great time.

By the way, Linda has an excellent point--harassment. When I worked in social service for a brief period of time ten years ago, we made home visits after *all* attempts to reach a client failed. These folks were mandated to attend training classes in order to receive welfare payments. When I knocked on the door accompanied by another member of the agency, I felt very uncomfortable and often worried about violating someone's rights. More importantly, I wondered if I might be putting myself in danger. In most cases, these unannounced visits were uneventful; however, in a few situations, the clients cursed us and demanded that we leave immediately. You never know what you may come up against when you trespass.

Can't our lawyer contact them on the firm's stationery?
Sometimes people will react to an attorney but pay no attention to us because they think we have no authority.

Willis

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I will contact our attorney before I leave for Hawaii tomorrow (somebody has to drink Mai Tais from the barefoot bar while watching sunset – my idea of a cheaper, less painful stimulus of our economy). I will be back in town on the 5th of Mar.

Tx,
Gene

From: Robert
A forsythe [mailto:forsythenc@embarqmail.com]
Sent: Wednesday, February 18, 2009 9:58 AM
To: Linda
Pickens
Cc: Gene Peele;
Willis Vincent; George McNulty; Rick Layton; Steve Harman

3/27/2009

Subject: Re: Visiting Homeowners With
Liens

Linda:

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The
personal visit as suggested was because I cannot find phone numbers for them. (note: I have recently discovered one of the phone numbers, but have not tried to call it.) I look at the personal visit as a way to see what they have to say before more drastic measures are taken. My letters to these individuals do remind them of more drastic legal steps. There may be some justification in their minds as to why they have not paid, but without their response to my letters we just do not know. Suzanne Forsythe
2/18/09

----- Original Message -----

From: Linda Pickens

To: Gene Peele

Cc: Willis Vincent
, George McNulty
, Rick Layton ,
Steve Harman , Suzanne Forsythe

Sent: Tue, 17 Feb 2009 12:37:57 -0500
(EST)

Subject: Visiting Homeowners With
Liens

3/27/2009

Gene,

With respect to the
issue of liens, I've now
had the opportunity to read the statute
provided by Suzanne at the 2/11 meeting
concerning privacy. I'm
concerned that personally visiting the
homeowners having liens could
be considered "harassment" under NC
statutes. To err on the side of
caution, you may want to run this by our
attorney before visiting the
homes just to be certain that it acceptable to do
so under the
law.

Thanks,

3/27/2009

Linda

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3/27/2009

Linda Pickens

From: <WsVincent@aol.com>
 To: <lindapickens676@suddenlink.net>
 Sent: Thursday, January 22, 2009 10:33 AM
 Subject: Re: City of New Bern Parking Regulations

Thanks, Linda, for the prompt follow up. These are the same regulations that I noticed in my search. I wish you well as you prepare the extensive minutes for last night's meeting. Willis

In a message dated 1/22/2009 8:58:47 A.M. Eastern Standard Time, lindapickens676@suddenlink.net writes:

Willis,

As discussed at the meeting last night, here are the pertinent provisions of the City of New Bern Parking Regulations:

Sec. 70-216. Prohibited parking purposes.

No person shall stand or park a vehicle upon any street for the principal purposes of:

- (1) Displaying it for sale.
 - (2) Washing, greasing, or repairing the vehicle, except repairs necessitated by an emergency.
 - (3) Storage thereof by garages, dealers or other persons when such storage is not incident to the bona fide use and operation of such automobile or other vehicles.
 - (4) Storage of any detached trailer or van, when the towing unit has been disconnected, or for the purpose of transferring merchandise or freight from one vehicle to another.
 - (5) Leaving the vehicle unattended with the motor running.
 - (6) For the primary purpose of advertising.
- (Code 1971, § 14-142)

Sec. 70-223. Locations where stopping, standing or parking is generally prohibited.

No person shall stop, stand, or park a vehicle, attended or unattended, except when necessary to avoid conflict with other traffic, or in compliance with the directions of a police officer or traffic-control device in any of the following places:

- (1) On the sidewalk, or between the sidewalk and the curb.
- (2) Within an intersection or in front of a private driveway.
- (3) On a crosswalk.
- (4) Within 30 feet of any flashing beacon, stop sign, or traffic-control signal located at the side of a street or roadway.
- (5) On either side of any street approaching a railroad underpass, or overhead bridge, within 50 feet in any direction of the outer edge of such underpass or overhead bridge.
- (6) On either side of any street approaching a grade crossing within 50 feet of the closest rail; however, where existing permanent structures are located along the street and closer than 50 feet, parking may be permitted in front of such structures, unless otherwise prohibited, if the stopping, standing, or parking does not interfere with the view in either direction of an approaching locomotive or train.
- (7) Alongside or opposite any street excavation or obstruction, when such stopping or standing or parking would obstruct traffic.
- (8) Upon any bridge or other elevated structure.
- (9) Within 15 feet in either direction of the entrance to a hotel, theater, hospital, sanatorium, or any public building, or a fire hydrant or fire station.
- (10) On the roadway side of any vehicle stopped, standing or parked at the edge or curb of a street. Provided, however, a taxicab may be stopped briefly in such location for the purpose of loading or discharging passengers if curb side parking space is not readily available in the immediate vicinity; provided further, however, the driver of any such taxicab who avails himself of this provision of the Code shall immediately move his vehicle if traffic conditions are heavy and he is ordered to do so by a law enforcement officer.

3/27/2009

(11) Within 25 feet from the intersection of curblines or, if none, then within 15 feet of the intersection of property lines at an intersection of highways or streets.

(12) Trucks shall not be parked on any residential street between 12:00 midnight and 6:00 a.m. on weekdays or any time on Sunday.

(Code 1971, § 14-149)

State law references: Similar provisions, G.S. 20-162.

I was unable to find a definition of "Trucks" as used in the above sub-section (12), although in another Section pertaining specifically to trucks, typical pick-up trucks are exempted.

A Good Credit Score Is 700 or Above. See yours in just 2 easy steps!

Linda Pickens

From: <WsVincent@aol.com>
To: <dgpeele@embarqmail.com>
Cc: <mmentulty2@suddenlink.net>; <forsythenc@embarqmail.com>;
<lindapickens676@suddenlink.net>; <steve_harman@suddenlink.net>; <ricklayton@msn.com>
Sent: Thursday, January 22, 2009 10:20 AM
Attach: September_2000.pdf
Subject: Parking Regulations

Hi Gene: I have attached an interesting article about community associations regulating vehicles parked on public streets. I think Paragraph 4(J) of our protective covenants gives us the option to regulate the parking of Mr. Vendetti's trailer on a public street within our community. However, court litigation might be the only way to bring clarity to this issue.

I also looked up parking regulations for the city of New Bern; and as Linda implied last night, some of the information is vague. A section of the code did indicate that a trailer attached to a car or truck could remain on the street overnight. I also noticed that certain streets in New Bern are listed as having restricted parking during certain hours of the day. I guess that we could ask the city of New Bern to allow us to post signs restricting overnight parking in our neighborhood, but I imagine the process would be subject to numerous hearings and who knows how city council would react to this matter. (I have not lived here long enough to know the politics of the city.) I did not notice any code limiting how long a vehicle may be parked on a city street, but my examination of the code last night was rather cursory.

In my opinion, we took the right step in limiting Vendetti's \$100 fine to past violations on his lot. I look forward to reviewing the letter that you will be preparing for delivery to Mr. Vendetti.

By the way, I will be meeting with Jim Krise today to review procedures he followed as the Sheriff. I will also let Clay Carson know that I will be the contact person for reporting covenant violations.

Take care, Willis

A Good Credit Score is 700 or Above. See yours in just 2 easy steps!

September 2000

Regulating Vehicles Parked on Public Streets

By: Todd A. Sinkins, Esquire

Many of our community association clients have requested our opinion as to whether their Board has the legal authority to regulate commercial and recreational vehicles when they are parked in the public streets within the boundaries of the association.

The issue is often a thorny one. Vehicular restrictions are often important to preserve the residential appearance for a community. This is why developers create the restrictions in the first place. The appearance of trailers, taxis and other commercial or recreational vehicles parked in the public streets serving residential homes is clearly an eyesore. It often seems counter-intuitive to Boards that it is a violation of the covenants for a member to park his boat in his driveway, but it is not a violation if he parks it next to the curb serving the public street in front of the member's home.

Yet this can be the case under the law of many jurisdictions.

A community association's vehicular restrictions and regulations are set forth in the covenants, rules or regulations. In most jurisdictions, the covenants rarely are recorded against the title of the public

streets, which are typically owned by the County, because most County Boards of Supervisors refuse to accept title to the public streets with any such reservations or restrictions against the title.

Since developers rarely record the covenants against the title of the public streets, many community associations lack the authority to enforce their vehicular restrictions against members who park nonconforming vehicles in the public streets. The Virginia Supreme Court's ruling in 1992 in the case of Raintree v. Albermarle Owners Association established this principle of law.

In the Raintree case, a homeowners association sued a member of the Association in order to obtain a court order to prohibit the member from parking his nonconforming tow truck anywhere on his lot and on the public street in front of his home. The legal documents of the association prohibited its members from parking this type of vehicle anywhere on their lot, but they were silent with respect to any prohibition as it related to the public streets.

While the Supreme Court granted the association's request for a court order to ban the member from parking the tow truck

anywhere on the lot, it denied the association's request for a court order banning the member from parking the tow truck next to the curb of the public street in front of his home. The Court ruled that the association lacked the authority to regulate the member's parking on the public street because the covenants did not apply to that property.

More recently, in December of 1998, Fairfax County Circuit Court Judge Wooldridge issued his decision in Cavalcade Homeowners Association v. John E. Beacom. In Cavalcade, the community association sued one of its members for the purpose of obtaining a court order to prohibit the member from engaging in his regular practice of parking his tow truck on a public street in front of his house. The association alleged that the member's practice of parking his tow truck next to the curb of the public street was a violation of both the governing documents of the association and a Fairfax County Ordinance.

Judge Wooldridge ruled against the association. He supported his ruling by pointing out that when the developer of Cavalcade dedicated ownership of the public streets within the subdivision to Fairfax County, it did so without a) creating any restrictions upon the members of the community association as to how they might be able to use the public streets and b) reserving any rights for the community association to impose any restrictions in the future on how their members might be able to use the public streets; therefore, he found that the association's amendment of its governing documents to enact such a restriction was not enforceable.

While the Raintree and Cavalcade cases set forth the applicable precedent, these cases do not support the proposition that community associations may never regulate

the parking practices of their membership as it relates to the public streets. We believe that any such assertion is not accurate, as we interpret the breadth of the ruling in the Raintree and Cavalcade cases narrowly. We believe the Court correctly found that the community associations in those cases lacked the authority to regulate the public streets.

For example, there are some community associations which have the power to restrict or prohibit the public and their membership from parking certain vehicle on the public streets serving their subdivision. They have the power because the Board of Supervisors of their municipality accepted title to the public streets from the community association's declarant with a reservation of the power of the community association to do so. For example, the Board of Supervisors of Prince William County has accepted some Deeds of Dedication with these types of reservations in the past.

There is also at least one case that supports the position that a community association can enforce its parking restrictions against its members who park their vehicles in the public streets located within the association under a different legal basis. That case is Maryland Estate Homeowners Association v. Puckett, a 1996 Missouri case.

In the Maryland case, the Board of Directors and a member of the association became involved in a dispute because a member regularly parked a work-truck in his driveway or next to the curb of the public street in front of his home. The association's legal documents prohibited members from parking this type of truck anywhere within the boundaries of the community, including on the public streets serving the subdivision. The Maryland Estate HOA sued the member, requesting an injunction to ban the member from parking his work-truck in his

driveway or anywhere else within the community's boundaries, including next to the curb of the public street in front of his home.

The Missouri Court ruled in favor of the association. The court concluded that the association had the authority to regulate the parking practices of its members within the public streets because the association's restrictive covenants clearly prohibited members from parking work-trucks on the public streets serving the community. The Missouri Court ruled that the covenants were binding on all members, regardless of who owned the public street. As a means of clarifying its underlying point, the Court went on to say that the association would not be able to enforce the covenant against a non-member of the association because they were not a party to the covenant.

At the local level, our clients in Fairfax County have a new tool that may allow them to regulate parking on public streets. This is because the Virginia General Assembly and Fairfax County Board of Supervisors have both recently enacted legislation that allows Fairfax County to prohibit individuals from parking commercial vehicles on public streets in certain circumstances.

In 1997, the Virginia General Assembly passed legislation allowing counties with a population greater than 500,000 to pass local ordinances that prohibit members of the public to park certain types of commercial vehicles in public streets located in a residential zone. Pursuant to this statute, the Fairfax County Board of Supervisors enacted an ordinance that prohibits anyone from parking a commercial vehicle (as defined by the ordinance) on public residential streets located in a residential zone. The provisions of the Fairfax County ordinance directly mirror those of the Virginia Code; therefore, there is now a

legal remedy for the County police to issue citations to those individuals who park commercial vehicles on the public streets located within a community association.

However, one problem with the legislation is that the County's definition of "Commercial Vehicle" is narrow. Fairfax County's definition of "Commercial Vehicle" omits many vehicles that many people would commonly consider to be commercial vehicles. Those vehicles could be legally parked on the public streets within and adjacent to the Association.

In addition, the County, rather than community associations, has the power to enforce this ordinance. Unfortunately, the Fairfax County Police Department has not actively enforced this new County ordinance due to a lack of awareness or time on the part of the police officers. When questioned about the lack of enforcement, most police substation chiefs have stated that their officers will not enforce the ordinance unless a parked vehicle threatens the safety of the public. While one can certainly understand the police department's limited resources, the reality of the matter is that their enforcement philosophy is not consistent with the letter of the law.

If your Board desires greater enforcement of the prohibition against commercial vehicle parking on public streets, we suggest that the Board contact the local police substation representative and request his/her assistance in educating fellow officers of the law and requesting a more active enforcement approach. In a case where your Board knows of a specific violation, the Board should notify the local police department by letter about the violation.

In the most recent legislative term, the Virginia General Assembly further expanded the ability of community

associations within Fairfax County to limit the parking of nonconforming vehicles on the public streets within the association. The General Assembly passed a bill amending the Virginia Code to allow Fairfax County to enact an ordinance regulating or prohibiting persons from parking any (a) boats or similar watercraft; (b) boat trailers; (c) motor homes; and (d) camping trailers on any public road.

Pursuant to that legislation, on August 7, 2000, the Fairfax County Board of Supervisors enacted an ordinance that authorizes individuals or HOAs to submit a written petition to the County Board of Supervisors requesting the prohibition of the parking of watercraft, boat trailers, motor homes and camping trailers on a particular public street. The area subject to the request must be at least five blocks deep on both sides of the street or must be at least any number of blocks that front on a street at least 5,000 feet long. The petition must include the names, address and signature of petitioners who own at least seventy-five percent of the property located within the proposed parking-restricted area. Moreover, the Board of Supervisors will not even consider the petition unless at least seventy-five percent of the land that is adjacent to each block within the proposed parking-restricted area is zoned, planned or developed as a residential area. Each petition must be submitted on forms provided by the County and accompanied by a nonrefundable application fee in the amount of \$10 for each property address located within the proposed parking-restricted area. If the Board of your association wishes to initiate this process, we would be happy to assist in preparing the written request to the Board of Supervisors.

The Board of Supervisors has the discretion as to whether it shall consider a petition, even if the petition conforms with all the

requirements required for a valid petition. If the Board of Supervisors decides to consider the petition, it will provide notice of the proposed petition in a local paper and will schedule a public hearing on the petition. If the Board of Supervisors approves the petition, the parking restriction will become effective after the County places signs designating the restrictions in the parking-restricted area.

So, in conclusion, if your community association has a problem with nonconforming vehicles parked in the public streets serving your community, please check the precise language of your restrictive covenants. Your community may be one of the few that has the specific language to support the association's power to regulate the public street parking practices of your membership.

If so, the Board should send a general notice to the community of its intent to begin an active enforcement program of the applicable restrictions as of a certain date; then, after that date, the board should place specific offenders on notice of any violation after the board or management identifies the owners of the offending vehicles. The notice should warn offending members of the association's right to initiate enforcement action.

If violations persist after such notice, we generally do not recommend that the board enforce its position by authorizing a tow company to tow the nonconforming vehicle to an impound lot. We believe this means of enforcement is disfavored by the judiciary and will only create more conflicts and legal issues for the Board in the future. Instead, we recommend that the Board begin the enforcement process by initiating the steps necessary to impose monetary charges against the offending member under the appropriate resolution of the association.

September 2000

5 Rees, Broome & Diaz, P.C.

If that process does not result in compliance, then we believe a Board must consider litigation as the next remedial step in the process to compel compliance.

If our clients have any questions concerning the towing of vehicles from public streets within the association, please do not hesitate to contact any of our community association attorneys.

Linda Pickens

From: <WsVincent@aol.com>
To: <mmcnulty@suddenlink.net>; <forsythenc@embarqmail.com>;
<lindapickens676@suddenlink.net>; <steve_harman@suddenlink.net>; <ricklayton@msn.com>
Cc: <dgpeele@embarqmail.com>
Sent: Tuesday, February 10, 2009 6:27 PM
Attach: Covenant Procedures2.doc; Tribune Article.doc
Subject: Procedures for Covenant Violations/Article

Board Members

Attached is a document explaining the procedures that I plan to follow when enforcing covenant violations. I shared the initial draft of this document with Gene, and I integrated his helpful suggestions. If you have suggestions, please let me know. I plan to discuss covenant violations at tomorrow's Board meeting.

Also attached is an article about covenants that I would like to have published in the *Tribune*.

Willis

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3/27/2009

TABERNA HOMEOWNERS ASSOCIATION

Procedures for Violations of Covenants and Architectural/Appearance Guidelines

- At the beginning of each month, Building and Grounds Committee members monitor the neighbor and personally inspect property for covenant and architectural/appearance violations. The Chair of Building and Grounds compiles the list of violations and reports the violations to the Covenants Champion, the Board member with overall responsibility for violations. All reporting should be completed by the 5th of each month by the Committee members.
- The Covenants Champion contacts the violators reported by the Chair of Building and Grounds. He/she personally visits each property involving a violation to determine if the situation is truly a violation. Violations must be visible from streets, the golf course, sidewalks, and common areas.
- The Covenants Champion contacts the Chair or a member of the Buildings and Grounds Committee who reported the violation if further clarification about the violation is needed.
- Violations will not be prioritized in any way. In other words, a violation is a violation. All violations will be treated equally. Each violation will be recorded each month on a spreadsheet prepared by the Covenants Champion. A summary of violations will be presented to the Board at the monthly meeting.
- A first letter (a "Friendly Reminder" letter) is sent by the Covenants Champion to each homeowner who violates a covenant or guideline. If the property is rented through a property management company, a designated person at the property management company receives the letter. A deadline for correcting the violation will be recommended.
- All friendly letters are sent by first-class mail, or e-mail if a property management agent needs to be notified. This letter will specify what the violation is, and what the Board believes needs to occur in order for the violation to be corrected. See the attachment "sample" Friendly Reminder" letter.
- The Covenants Champion will send a second letter to the homeowner if a violation is not corrected with a reasonable period of time. The second letter is the "Second Notice." Copies of the second letter are sent to the President of the Board, the chair of the Adjudicatory Panel, and the chair of the Building and Grounds Committee.
- Before a second letter is mailed, the Board may want to review or discuss the continued violations that have not been effectively addressed. See "Sample" second letter, a "Warning Letter." A homeowner will be given fourteen (14) days from the date on the second letter to respond and/or take corrective action. This letter will usually be mailed through first-class mail.
- A third letter, the "Final Covenant Violation Letter," will come from the chair of the Adjudicatory Panel. See "Sample" third letter. This letter will be sent by *certified mail, return receipt requested*. The chair of the Adjudicatory Panel will ultimately determine the content of the letter. Copies of the letter will be sent to all members of the Board and the chair of Building and Grounds.

FRIENDLY LETTER (1st)

Sample Violation Letter--Each violation will be identified according to our covenants and guidelines.

**Taberna Homeowners Association
Board of Directors
1005 Taberna Circle
New Bern, NC 28562
Date**

Homeowner's Address

Dear

Each resident of Taberna has an obligation to maintain his or her property to the standards of the community and to comply with the Protective Covenants and Appearance Guidelines. Please understand that these standards were established by the Association to preserve, protect, and enhance our community.

According to the Taberna Protective Covenants and Building Guidelines, trailers, boats, etc., must be stored in a garage or offsite. Please note the Taberna Building, Architectural, and Appearance Guidelines below. For additional information about our covenants and guidelines, visit our website[tabernahoa.org].

7. PARKING OF RECREATIONAL VEHICLES, BOATS AND TRUCKS

- Boats, boat trailers, other trailers, campers, recreational vehicles, utility vehicles or trucks (rated one ton or higher) may not be parked on any street right-of-way or on any lot overnight unless enclosed within a garage.
- Automobiles may only be parked on the driveway, on the street, or in the garage.

Unfortunately, the Taberna Building and Grounds Committee has reported a violation to the Board of the Taberna Homeowners Association. Therefore, we request the removal of the trailer from your driveway no later than seven (7) days from the receipt of this letter.

If you have questions about the violation or need additional time to correct the violation, e-mail me at wsvincent@aol.com. You can also write me at the Board mailing address above.

Sincerely

Willis S. Vincent
Representative, Taberna HOA Board of Directors

WARNING LETTER (2d)

**Taberna Homeowners Association
Board of Directors
1005 Taberna Circle
New Bern, NC 28562
Date**

Homeowner's Address

Dear

As a member of the Taberna community, you have an obligation to abide by protective covenants and appearance guidelines. These covenants and guidelines are in place to ensure that our community remains aesthetically pleasing and that our homes maintain the highest level of value.

On (date 1st letter was sent), you were advised about a specific violation at your property. A copy of that letter is enclosed.

At this time, we are still seeking remediation of the violation. Therefore, we ask that the violation be corrected within fourteen (14) days from the date of this letter. The Board has instituted a fine policy for covenant, architectural, and appearance violations that are not resolved within a reasonable period of time.

We look forward to the correction of the violation by _____. Please respond in writing that you intend to address the covenant violation. If no response is received by _____, we will assume that you do not choose to correct the violation.

Please contact me at wsvincent@aol.com. If you prefer, you may also write me at the address above.

Sincerely

Willis S. Vincent
Representative, Taberna HOA Board

c Gene Peele, President, HOA Board
John C. Reichenach, Chair, Adjudicatory Panel
Jim Wilson, Chair, Building and Grounds

Enclosures

FINAL COVENANT VIOLATION LETTER (3d)

Date

Homeowner's Address

Dear

The Board of Directors of the Taberna Master Homeowners Association has requested that a hearing by the Taberna Adjudicatory Panel be held concerning your alleged violation(s) of the Taberna protective Covenants, Rule, Regulations and/or Building Guidelines and Standards.

Accordingly, concerns regarding the

_____ will be considered by the Panel at
_____ in the conference room of the Taberna HOA offices at the
above address. You have the right to attend the hearing and present your views on this matter to
the Panel but, should you choose not to attend, the hearing will nonetheless proceed in your
absence.

Please be advised that the hearing and deliberations of the Panel will be conducted pursuant to
North Carolina General Statute Section 47F.3.102-118 (as amended). A decision confirming
your violations could result in both monetary fines and further legal action against you.

We sincerely hope that these alleged violations may be resolved satisfactorily prior to the above
hearing date.

Very truly yours

Chairperson, Adjudicatory Panel

Copies to:

Linda Pickens

From: <steve_harman@suddenlink.net>
To: <WsVincent@aol.com>; <mmcnulty@suddenlink.net>; <forsythenc@embarqmail.com>; <lindapickens676@suddenlink.net>; <ricklayton@msn.com>
Cc: <dgpeele@embarqmail.com>
Sent: Tuesday, February 10, 2009 11:57 PM
Subject: RE: Procedures for Covenant Violations/Article

Willis and Gene: I think that communication from the Taberna HOA should be reserved for the Presidents Message in the Taberna Tribune.

Ref the content: If I read this I would be turned off as a fairly long time resident. It is much to instructive for me.

Bottom-line: We need to communicate a friendly and helpful image not one that tells people what to do.

Steve

From: WsVincent@aol.com [mailto:WsVincent@aol.com]
Sent: Tuesday, February 10, 2009 5:28 PM
To: mmcnulty@suddenlink.net; forsythenc@embarqmail.com; lindapickens676@suddenlink.net; steve_harman@suddenlink.net; ricklayton@msn.com
Cc: dgpeele@embarqmail.com
Subject: Procedures for Covenant Violations/Article

Board Members

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Willis

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Linda Pickens

From: "Robert A forsythe" <forsythenc@embarqmail.com>
To: <WsVincent@aol.com>
Cc: <mmcnulty@suddenlink.net>; <lindapickens676@suddenlink.net>; "steve harman" <steve_harman@suddenlink.net>; <ricklayton@msn.com>; <dgpeelee@embarqmail.com>
Sent: Wednesday, February 11, 2009 2:33 PM
Subject: Re: Procedures for Covenant Violations/Article

Willis: Okay. here goes with my take and usual need to make suggestions. Looks like a lot, but considering there were five pages, really isn't.

Article for Tribune on Covenants: I personally like the article. This is something that people need to be reminded of from time to time. You wrote it as an article written by a resident, not a Board member; and as such, you are completely free to submit it without Board approval. (Although it is a good idea to run it by us.) One thing to change that may keep it from being too preachy: Change the 'you' to 'we' throughout the body of the article.

Procedures for Violations: Thorough, although some of the terminology is a little cutesy for official files. Suggestions:

- a) Throughout: you have capitalized Chair sometimes and sometimes not. I like to use a capitalized "Chair" to distinguish from furniture
- b) Page one, second paragraph, second sentence: change to "a reported violation"
- c) Page one, fourth paragraph, last sentence: change 'the monthly meeting' to 'their monthly meeting'.
- d) Page one, fifth paragraph. I thought we sent notices to the owner at all times, as well as the mgmt. company if a rental. As owner is ultimately responsible, they should want to know what their mgmt company is or is not doing to protect their interests.
- e) Page one, sixth paragraph, first sentence: add the term 'friendly reminder' instead of just 'friendly'.
- f) Page one, paragraph seven & eight: You changed the reference name of the Second Notice to Warning Letter. Need to be consistent.
- g) Page two: First letter: Suggest changing the word "Unfortunately" to: 'Be advised that the Taberna ...etc.'
- h) Page three: Second letter: You used the same opening paragraph as in the 'friendly reminder' letter. If I was a homeowner and not paying much attention, I would think this was a duplicate of what I got a couple of weeks earlier and tend to throw it away without finishing. I like the idea of reminding them of the idea of Community responsibility, but would suggest that the second paragraph be the first sentence of the first paragraph and then add the sentences to the end of that.
- i) Page three, Second letter, paragraph three: suggest adding the term 'monetary fine' instead of just 'fine'. The first time I scanned it, I thought you meant the Board has a great policy for ...
- j) Page four, Final letter: The letter refers to the 'above address'. Not knowing what address is being referred to: the PO Box on Rte 70 or the 1005 Tab. Circle, I would strongly suggest that the location address of the HOA offices be written into the body of the letter to eliminate any confusion on the part of the resident as to where he needs to attend.

Suzanne Forsythe 2/11/09

----- Original Message -----

From: WsVincent@aol.com
To: mmcnulty@suddenlink.net, forsythenc@embarqmail.com, lindapickens676@suddenlink.net, steve harman, ricklayton@msn.com
Cc: dgpeelee@embarqmail.com
Sent: Tue, 10 Feb 2009 17:27:50 -0500 (EST)

Subject: Procedures for Covenant Violations/Article

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3/27/2009

Linda Pickens

From: <steve_harman@suddenlink.net>
To: "Robert A forsythe" <forsythenc@embarqmail.com>; <WsVincent@aol.com>
Cc: <mmcnulty@suddenlink.net>; <lindapickens676@suddenlink.net>; <ricklayton@msn.com>; <dgpeele@embarqmail.com>
Sent: Wednesday, February 11, 2009 5:19 PM
Subject: RE: Procedures for Covenant Violations/Article

All: I think we need to consider that the perception is that we are speaking as an HOA Board member if we publish something in the Tribune. Think of all the people out there who do not like the covenant restrictions. They too are free to put an article in the Tribune and all we are going to get is a free for all in our paper if the Tribune editorial board chooses to print that kind of stuff.

Steve

From: Robert A forsythe [mailto:forsythenc@embarqmail.com]
Sent: Wednesday, February 11, 2009 1:34 PM
To: WsVincent@aol.com
Cc: mmcnulty@suddenlink.net; lindapickens676@suddenlink.net; steve harman; ricklayton@msn.com; dgpeele@embarqmail.com
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Linda Pickens

From: <WsVincent@aol.com>
To: <lindapickens676@suddenlink.net>
Sent: Thursday, February 12, 2009 4:10 PM
Subject: Re: Procedures for Covenant Violations/Article

Linda: Thanks so much for your comments. The 3d letter was written by John Reichenbach, the chair of the Adjudicatory Plan, and I will eventually share your suggestions with him. Your name will be kept confidential. What a headache the enforcement of covenants can be! Enough said. Willis

In a message dated 2/11/2009 4:33:36 P.M. Eastern Standard Time, lindapickens676@suddenlink.net writes:

Hi Willis,

I think it is a terrific idea to have written procedures in place with respect to dealing with violations, although it is difficult to comply with Taberna's governing documents and NC statutes, as they sometimes conflict.

I think it's a good idea to send the 2nd & 3rd notice of violation letters via Certified Mail, Return Receipt Requested, which is required under our Bylaws, Article VI.

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See you tonight!

Linda

— Original Message —

From: WsVincent@aol.com
To: mmcnulty@suddenlink.net ; forsythenc@embarqmail.com ; lindapickens676@suddenlink.net ;
 steve_harman@suddenlink.net ; ricklayton@msn.com
Cc: dgpeelee@embarqmail.com
Sent: Tuesday, February 10, 2009 5:27 PM
Subject: Procedures for Covenant Violations/Article

Board Members

Attached is a document explaining the procedures that I plan to follow when enforcing covenant violations. I shared the initial draft of this document with Gene, and I integrated his helpful suggestions. If you have suggestions, please let me know. I plan to discuss covenant violations at tomorrow's Board meeting.

Also attached is an article about covenants that I would like to have published in the *Tribune*.

Willis

A Good Credit Score Is 700 or Above. See yours in just 2 easy steps!

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Version: 8.0.233 / Virus Database: 270.10.20/1944 - Release Date: 02/08/09 17:57:00

The year's hottest artists on the red carpet at the Grammy Awards. AOL Music takes you there.

No virus found in this incoming message.

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Version: 8.0.237 / Virus Database: 270.10.23/1949 - Release Date: 02/12/09 11:34:00

BEAUTIFICATION SUGGESTIONS

(SLF record as of 2/9/9)

Composite list done by B&G provided to BOD 04/07


- Old Airport Road East – Monument, trees (done)
- Old Airport Road West – Monument, plantings (done)
- Emmen Rd Bern – Adjacent to Sursee Ct – Trees, Beds, Plantings (done)
- Emmen Road Berms – Adjacent to Sellhorn - Street trees on the internal side, shrubs to break up wax myrtle line on external side (Placed trees along the 'external' side in front of wax myrtles. Nothing yet added to the internal side as existing shrubs still need to mature.)
- Emmen Road Berm – Adjacent to Sellhorn - Trees, Beds (this is the small piece of land at the side of the last house before seeing Sellhorn and will need permission from the owner of that property to place trees, etc. on his property to help shield view of Sellhorn and prevent trespassing. Not yet done)
- Emmen Road near Clark development – Natural plants and mulch (not done yet)
- Emmen Rd at end of Taberna Way – Plantings similar to Emmen berm. (not done yet)
- Taberna Way & Taberna Circle – Utility Box plantings (may be done)
- Park area along Taberna Circle – Trees, Beds (Trees have been planted)
- Nydegg Road & Taberna Circle – Shrubs around utility boxes (may be done)
- Appenzell and Emmen Road – Shrubs around utility boxes (may be done)
- Taberna Circle across from Club – Trees along common area (not sure if this was completed or combined with the Old Airport Rd entrance beds)
- Fountains at the main entrance: (This was NIXED due to cost, upkeep, possible source of vandalism, and that the eventual impact of Rte 70 changes and completion of the Townes and Comm. Areas will impact the entrance.)
- Neuchatel Rd and Tab. Circle – Plantings on the Common area. (not done yet)
- Taberna Way Entrance – both sides – remove redbuds, replace with other plantings (not done yet)
- Abbington Woods/Bradford Place junction – Ornamental grasses against woods, centipede to street (not done yet)
- Taberna Way adjacent to tennis courts – Street trees minimum, possibly other plantings. (Trees placed to be cared for by Tab. Club)
- Taberna Way adjacent to Hole #5 – Street trees along and up to St. Gallen Ct. (not done yet)
- Taberna Circle left at stop sign – Street trees (not done yet)

§ 75-53. Unreasonable publication.

No debt collector shall unreasonably publicize information regarding a consumer's debt. Such unreasonable publication includes, but is not limited to, the following:

- (1) Any communication with any person other than the debtor or his attorney, except:
 - a. With the written permission of the debtor or his attorney given after default;
 - b. To persons employed by the debt collector, to a credit reporting agency, to a person or business employed to collect the debt on behalf of the creditor, or to a person who makes a legitimate request for the information;
 - c. To the spouse (or one who stands in place of the spouse) of the debtor, or to the parent or guardian of the debtor if the debtor is a minor and lives in the same household with such parent;
 - d. For the sole purpose of locating the debtor, if no indication of indebtedness is made;
 - e. Through legal process.
- (2) Using any form of communication which ordinarily would be seen or heard by any person other than the consumer that displays or conveys any information about the alleged debt other than the name, address and phone number of the debt collector except as otherwise provided in this Article.
- (3) Disclosing any information relating to a consumer's debt by publishing or posting any list of consumers, except for credit reporting purposes and the publication and distribution of otherwise permissible "stop lists" to the point-of-sale locations where credit is extended, or by advertising for sale any claim to enforce payment thereof or in any other manner other than through legal process. (1977, c. 747, s. 4; 1979, c. 910.)

*This document (also available in PDF and RTF formats) is not an official document.
Please read the caveats on the main NC Statutes page for more information.*

*Please Review
for July meeting*


Linda Pickens

From: "Linda Pickens" <lindapickens676@suddenlink.net>
 To: <WsVincent@aol.com>; <mmcnulty@suddenlink.net>; <forsythenc@embarqmail.com>;
 <steve_harman@suddenlink.net>; <ricklayton@msn.com>
 Cc: <dgpeele@embarqmail.com>
 Sent: Wednesday, February 11, 2009 4:33 PM
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2/11/2009

Covenants, Oh Covenants

Willis S. Vincent

Approximately one year ago, we started an active search for a home in New Bern and the surrounding area. We wanted a fairly new community with some amenities and an attractive living environment. When we started shopping for a new house, we looked at areas with no homeowners associations.

Oh my goodness! Those neighborhoods weren't where we wanted to live. They had unkempt lawns and gardens, trailers, RVs and boats parked in front, portable basketball hoops in the street, kid's toys littering the lawns and streets, and garbage cans in the front and side yards brimming with trash. Fortunately, we discovered Taberna! What a refreshing break from what we often saw in other parts of New Bern and Craven County. We were impressed with Taberna's ambiance; we finally moved here last June!

When folks move into a planned community, they often do not bother to understand the nature of the covenants under which they will be living. Therefore, they have no idea what they bought into. Most receive documents that address rules and regulations governing the community—usually prior to settlement by an attorney. They do not take the time to read the documents because the material is complex and lengthy.

As a homeowner or resident within a planned community such as Taberna, you have the responsibility to be a responsive community member. Learn more about the rules and regulations of our association. Take time to review the governing documents of the association. Taberna has an excellent website—tabernahoa.com.

In North Carolina we are fortunate to have the North Carolina Planned Community Act. The Act requires that a due process hearing be held before any homeowner can be fined for a covenant violation. The Act also limits the amount of the fine and sets other restrictions on associations.

In addition to being knowledgeable about our rules and regulations, vote in association elections. Attend the association's annual meeting. Participate as a member of various committees, or volunteer to serve on the Board of Directors. Contact association leaders to discuss issues of concern about the community. Pay association assessments and charges on time. Ensure that those who reside or stay on your property (e.g., tenants, relatives, or friends) adhere to all rules and regulations.

Most importantly, you need to remember that a community such as Taberna provides people who share common values an opportunity to live together. The homeowners association is the vehicle that enforces regulations and maintains community standards consistent with these values. Ask yourself: Without our fairly strict standards and regulations, would Taberna be the desirable community that it is today?

TABERNA HOMEOWNERS ASSOCIATION
Procedures for Violations of Covenants and Architectural/Appearance Guidelines

- At the beginning of each month, Building and Grounds Committee members monitor the neighbor and personally inspect property for covenant and architectural/appearance violations. The Chair of Building and Grounds compiles the list of violations and reports the violations to the Covenants Champion, the Board member with overall responsibility for violations. All reporting should be completed by the 5th of each month by the Committee members.
- The Covenants Champion contacts the violators reported by the Chair of Building and Grounds. He/she personally visits each property involving a violation to determine if the situation is truly a violation. Violations must be visible from streets, the golf course, sidewalks, and common areas.
- The Covenants Champion contacts the Chair or a member of the Buildings and Grounds Committee who reported the violation if further clarification about the violation is needed.
- Violations will not be prioritized in any way. In other words, a violation is a violation. All violations will be treated equally. Each violation will be recorded each month on a spreadsheet prepared by the Covenants Champion. A summary of violations will be presented to the Board at the monthly meeting.
- A first letter (a "Friendly Reminder" letter) is sent by the Covenants Champion to each homeowner who violates a covenant or guideline. If the property is rented through a property management company, a designated person at the property management company receives the letter. A deadline for correcting the violation will be recommended.
- All friendly letters are sent by first-class mail, or e-mail if a property management agent needs to be notified. This letter will specify what the violation is, and what the Board believes needs to occur in order for the violation to be corrected. See the attachment "sample" Friendly Reminder" letter.
- The Covenants Champion will send a second letter to the homeowner if a violation is not corrected with a reasonable period of time. The second letter is the "Second Notice." Copies of the second letter are sent to the President of the Board, the chair of the Adjudicatory Panel, and the chair of the Building and Grounds Committee.
- Before a second letter is mailed, the Board may want to review or discuss the continued violations that have not been effectively addressed. See "Sample" second letter, a "Warning Letter." A homeowner will be given fourteen (14) days from the date on the second letter to respond and/or take corrective action. This letter will usually be mailed through first-class mail.
- A third letter, the "Final Covenant Violation Letter," will come from the chair of the Adjudicatory Panel. See "Sample" third letter. This letter will be sent by *certified mail, return receipt requested*. The chair of the Adjudicatory Panel will ultimately determine the content of the letter. Copies of the letter will be sent to all members of the Board and the chair of Building and Grounds.

*certified?
RRR.*

FRIENDLY LETTER (1st)

Sample Violation Letter—Each violation will be identified according to our covenants and guidelines.

**Taberna Homeowners Association
Board of Directors
1005 Taberna Circle
New Bern, NC 28562
Date**

Homeowner's Address

Dear

Each resident of Taberna has an obligation to maintain his or her property to the standards of the community and to comply with the Protective Covenants and Appearance Guidelines. Please understand that these standards were established by the Association to preserve, protect, and enhance our community.

According to the Taberna Protective Covenants and Building Guidelines, trailers, boats, etc., must be stored in a garage or offsite. Please note the Taberna Building, Architectural, and Appearance Guidelines below. For additional information about our covenants and guidelines, visit our website[tabernahoa.org].

7. PARKING OF RECREATIONAL VEHICLES, BOATS AND TRUCKS

- Boats, boat trailers, other trailers, campers, recreational vehicles, utility vehicles or trucks (rated one ton or higher) may not be parked on any street right-of-way or on any lot overnight unless enclosed within a garage.
- Automobiles may only be parked on the driveway, on the street, or in the garage.

Unfortunately, the Taberna Building and Grounds Committee has reported a violation to the Board of the Taberna Homeowners Association. Therefore, we request the removal of the trailer from your driveway no later than seven (7) days from the receipt of this letter.

If you have questions about the violation or need additional time to correct the violation, e-mail me at wsvincent@aol.com. You can also write me at the Board mailing address above.

Sincerely

Willis S. Vincent
Representative, Taberna HOA Board of Directors

WARNING LETTER (2d)

**Taberna Homeowners Association
Board of Directors
1005 Taberna Circle
New Bern, NC 28562
Date**

Homeowner's Address

Dear

As a member of the Taberna community, you have an obligation to abide by protective covenants and appearance guidelines. These covenants and guidelines are in place to ensure that our community remains aesthetically pleasing and that our homes maintain the highest level of value.

On (date 1st letter was sent), you were advised about a specific violation at your property. A copy of that letter is enclosed.

At this time, we are still seeking remediation of the violation. Therefore, we ask that the violation be corrected within fourteen (14) days from the date of this letter. The Board has instituted a fine policy for covenant, architectural, and appearance violations that are not resolved within a reasonable period of time.

We look forward to the correction of the violation by _____. Please respond in writing that you intend to address the covenant violation. If no response is received by _____, we will assume that you do not choose to correct the violation.

Please contact me at wsvincent@aol.com. If you prefer, you may also write me at the address above.

Sincerely

Willis S. Vincent
Representative, Taberna HOA Board

c Gene Peele, President, HOA Board
John C. Reichenach, Chair, Adjudicatory Panel
Jim Wilson, Chair, Building and Grounds

Enclosures

FINAL COVENANT VIOLATION LETTER (3d)

Date

Homeowner's Address

Dear

The Board of Directors of the Taberna Master Homeowners Association has requested that a hearing by the Taberna Adjudicatory Panel be held concerning your alleged violation(s) of the Taberna protective Covenants, Rule, Regulations and/or Building Guidelines and Standards.

Accordingly, concerns regarding the

_____ will be considered by the Panel at
_____ in the conference room of the Taberna HOA offices at the
above address. You have the right to attend the hearing and present your views on this matter to
the Panel but, should you choose not to attend, the hearing will nonetheless proceed in your
absence.

Please be advised that the hearing and deliberations of the Panel will be conducted pursuant to
North Carolina General Statute Section 47F.3.102-118 (as amended). A decision confirming
your violations could result in both monetary fines and further legal action against you.

We sincerely hope that these alleged violations may be resolved satisfactorily prior to the above
hearing date.

Very truly yours

Chairperson, Adjudicatory Panel

Copies to:

§ 47F-3-107.1