

IN THE CIRCUIT COURT FOR CLAIBORNE COUNTY, TENNESSEE

FRED MAESS, MICHAEL SISLOW,)
BRANDY SISLOW, JASON JORDAN,)
ED LUND, LAKE FRONT)
RENDEZVEUS, LLC., MICHELLE)
NORCROSS, DAVID NORCROSS,)
M&G EAGLESNEST, LLC, TROY)
VANDERHOOF, and PAM)
VANDERHOOF)

Plaintiffs,)

vs.)

MARK JONCKHEERE, Individually)
and in his Official Capacity as President)
of Lone Mountain Shores Owners)
Association, Inc.,)

DONALD NAVE, Individually)
and in his Official Capacity as)
Vice-President of Lone Mountain Shores)
Owners Association, Inc.,)

MARK ELLIS, Individually)
and in his Official Capacity as)
Treasurer of Lone Mountain Shores)
Owners Association, Inc.,)

SABRINA IZBRAND, Individually)
and in her Official Capacity as)
Secretary of Lone Mountain Shores)
Owners Association, Inc.,)

PATRICK ARMSTRONG, Individually)
and in his Official Capacity as)
Architectural Review Committee Liaison)
of Lone Mountain Shores Owners)
Association, Inc.)

Defendants.)

FILED
Claiborne County Circuit Civil Court

MAY 10 2023

Jackie Rosenbalm, Clerk
PS, DC

Case No. CV-2410

JURY DEMANDED

COMPLAINT

1. This case is one in tort against the individual members of the board of directors of Lone Mountain Shores Owners Association, Inc. and involves each individual Defendant's repeated acts of fraud, harassment, interference with Plaintiffs' property rights, violation of Plaintiffs' due process rights, and conspiracy to commit fraud upon Plaintiffs.

Parties

2. Plaintiffs Troy Vanderhoof and Pam Vanderhoof are members of the Lone Mountain Shores Owners Association, Inc. and the owners of real property located in Claiborne County identified as Lot 283 of the Lone Mountain Shores subdivision and known as 231 Bluffview Road, New Tazewell, Tennessee 37825.

3. Plaintiffs Michelle Norcross and David Norcross are members of the Lone Mountain Shores Owners Association, Inc. and the owners of real property located in Claiborne County identified as Lot 201 of the Lone Mountain Shores subdivision and known as 203 Nightshade Lane, New Tazewell, Tennessee 37825.

4. Plaintiff M&G Eaglesnest, LLC is a member of the Lone Mountain Shores Owners Association, Inc. and the owner of real property located in Claiborne County identified as Lot 68 of the Lone Mountain Shores subdivision and known as 473 Ridgecrest Drive, New Tazewell, Tennessee 37825.

5. Plaintiff Fred Maess is a member of the Lone Mountain Shores Owners Association, Inc. and the owner of real property located in Claiborne County identified as Lot 825 of the Lone Mountain Shores subdivision and known as 605 Wildcat Hollow Road, New Tazewell, Tennessee 37825.

6. Plaintiff Jason Jordan is a member of the Lone Mountain Shores Owners Association, Inc. and the owner of real property located in Claiborne County identified as Lot 823

of the Lone Mountain Shores subdivision and known as 629 Wildcat Hollow Road, New Tazewell, Tennessee 37825.

7. Plaintiff Ed Lund is a member of the Lone Mountain Shores Owners Association, Inc. and the owner of real property located in Claiborne County identified as Lot 834 of the Lone Mountain Shores subdivision and known as 265 Jacks Bluff Road, New Tazewell, Tennessee 37825.

8. Plaintiff Lake Front Rendezveus, LLC is a member of the Lone Mountain Shores Owners Association, Inc. and the owner of real property located in Claiborne County identified as Lot 355 of the Lone Mountain Shores subdivision and known as 272 Morning Glory Road, New Tazewell, Tennessee 37825.

9. Plaintiffs Michael Sislow and Brandy Sislow are members of the Lone Mountain Shores Owners Association, Inc. and the owners of real property located in Claiborne County identified as Lot 819 of the Lone Mountain Shores subdivision and known as 616 Wildcat Hollow Road, New Tazewell, Tennessee 37825.

10. All Plaintiffs were members of Lone Mountain Shores Owners Association, Inc. at all times material to this lawsuit.

11. Defendant Mark Jonckheere is a member of the Lone Mountain Shores Owners Association, Inc. and the owner of real property located in Claiborne County with address 218 Settlers Point Road, New Tazewell, Tennessee 37825. Defendant Jonckheere may be served with process at this same address. Since October 23, 2021, Defendant Jonckheere served as President of the Lone Mountain Shores Owners Association, Inc.

12. Defendant Donald Nave is a member of the Lone Mountain Shores Owners Association, Inc. and the owner of real property located in Claiborne County with address 645 Clearwater Road, New Tazewell, Tennessee 37825. Defendant Nave may be served with process

at this same address. Since May 6, 2022, Defendant Nave served as Vice-President of the Lone Mountain Shores Owners Association, Inc.

13. Defendant Mark Ellis is a member of the Lone Mountain Shores Owners Association, Inc. and the owner of real property located in Claiborne County with address 385 Clinch View Road, New Tazewell, Tennessee 37825. Defendant Ellis may be served with process at this same address. Since October 23, 2021, Defendant Ellis served as Treasurer of the Lone Mountain Shores Owners Association, Inc.

14. Defendant Sabrina Izbrand is a member of the Lone Mountain Shores Owners Association, Inc. and the owner of real property located in Claiborne County with address 190 Hemlock Way, New Tazewell, Tennessee 37825. Defendant Izbrand may be served with process at this same address. Since September 7, 2021, Defendant Izbrand served as Secretary of the Lone Mountain Shores Owners Association, Inc.

15. Defendant Patrick Armstrong is a member of the Lone Mountain Shores Owners Association, Inc. and the owner of real property located in Claiborne County with address 1223 Chimney Rock Road, New Tazewell, Tennessee 37825. Defendant Armstrong may be served with process at this same address. Since October 23, 2021, Defendant Armstrong served as Architectural Review Committee Liaison of the Lone Mountain Shores Owners Association, Inc.

Lone Mountain Shores Community and Short-Term Rentals

16. Lone Mountain Shores is a residential community established September 18, 1998, and located in Claiborne County, Tennessee.

17. A Declaration of Covenants, Restrictions, and Easements for Lone Mountain Shores was recorded with the Claiborne County Register of Deeds Office on September 18, 1998 at Page 274 of Book MISC54.

18. The Declaration of Covenants, Restrictions, and Easements recorded September 18, 1998 contained a specific provision within Section 6.09 which allowed Lone Mountain Shores Owners to rent their residences.

19. In fact, in the years following the recording of covenants in September 18, 1998, the LMSOA board of directors had affirmatively approved of short-term rentals on multiple occasions.

20. From at least 2003 until 2022, the LMSOA board of directors maintained an attorney opinion on its website, lmsoa.org, which explicitly stated short-term rentals are allowed in Lone Mountain Shores.

21. In October 2006, in response to an owner question during an LMSOA meeting, the board of directors informed the owner that short-term rentals are permitted in Lone Mountain Shores in accordance with the covenants.

22. On August 12, 2013, an Amended and Restated Declaration of Covenants, Conditions, Restrictions, and Easements for Lone Mountain Shores was recorded with the Claiborne County Register of Deeds Office on Page 649 of Book 1388.

23. The 2013 Amended and Restated Declaration included a Section 2.14 which defined "Single Family Residential Purposes" as follows:

"Single Family Residential Purposes" shall mean the property, consisting of just one primary Dwelling and all ancillary buildings on it shall be occupied by just one legitimate single housekeeping unit as distinguished from unaffiliated individuals or groups occupying a motel, hotel, bed & breakfast, or boardinghouse. Additionally, allowances are made for one accessory living quarters, such as a mother-in-law suite, without violating the "single family residential use" provided this secondary living quarters meets the requirements of Section 6.05 of these Covenants. Any rental accommodations and services such as those provided by hotels, motels, bed & breakfasts, rooming or boarding houses, apartment buildings or condominiums are excluded by this definition."

(See Exhibit 1 to Complaint.)

24. The 2013 Amended and Restated Declaration included a Section 6.04 “**Residential Use Only**” under Article VI “Standards for Land Use and Conduct of Activities on the Property.”

This Section 6.04 states as follows:

“All Lots shall be used for single family residential purposes only, and no commercial use is permitted. This restriction is not to be construed to prevent rental of any Lot or any dwelling for private single family residential purposes or to prevent an Owner from conducting home occupations in a Dwelling, provided such occupations: (a) are subordinate to the primary residential use; (b) occupy no more than twenty percent (20%) of the Dwelling’s floor area; and (c) employ not more than two (2) persons.

Examples of prohibited commercial uses of a Lot or any dwelling include providing the services of or operating as a restaurant, an inn, a boarding house, or a bed-and-breakfast or providing other atypical rental services of a commercial nature.”

(Exhibit 1 to Complaint)

25. The 2013 Amended and Restated Declaration included a Section 6.07 “**Rental**” under Article VI “Standards for Land Use and Conduct of Activities on the Property.” This Section 6.07 states as follows:

“Lots and Dwellings may be rented only for private single-family residential purposes subject to the following provisions:

- a. The renting to unaffiliated individuals or groups at the same time is prohibited.
- b. Tenants are required to abide by all LMS Governing Documents.
- c. Owners are responsible for the actions of their tenants. Each Owner shall take appropriate steps and should put in place additional rules, limitations and restrictions as necessary to ensure that tenants do not conduct deleterious activities or otherwise create a nuisance to other Owners.
- d. All rules, regulations, or use restrictions of these Covenants promulgated pursuant hereto that govern the conduct of Owners and that provide for sanctions against Owners also apply to all occupants of any Lot.”

(Exhibit 1 to Complaint)

26. On May 10, 2013, the LMSOA board of directors provided all LMSOA members with a detailed letter explaining that short-term rentals are permitted by the 2013 covenant amendments. (Exhibit 2 to Complaint)

27. This May 10, 2013 letter contained the following question with regard to short-term rentals:

“A question was raised on line over perceived impact of the amended “Residential Use” provision on currently allowed rental practices.

Many of the properties in LMS are currently rental properties. Often rented to multiple families or groups...Who you have as guests on your property, renters are also guests, is also your business. There is...no property value protection in the proposed changes.”

(Exhibit 2 to Complaint)

28. The LMSOA board responded to this question by explicitly stating short-term rentals are permitted under the 2013 amendment. The board stated as follows:

“In reviewing the Single Family Residential Purposes definition it should be noted that as long as a rental group occupies the property as one legitimate single housekeeping unit, regardless of blood relationships, they are considered to be using the property for single family residential purposes. ... The property is rented to the group, not to each individual or couple independently. The home is rented, not a room. This is consistent with the current permitted methods of rentals as provided for in the Covenants and therefore should have no adverse effects. This accepted type of renting is distinguished from unaffiliated individuals or groups functioning as independent housekeeping units or the renting of a room and sharing a common area as in a bed & breakfast or boardinghouse, or renting a single room as in occupying a motel or hotel.”

(Exhibit 2 to Complaint)

29. Thus, in 2013, the LMSOA board made it very clear to all LMSOA members, including Plaintiffs who owned and rented their property at the time, that short-term renting in the manner Plaintiffs rented was affirmatively approved by the LMSOA board.

30. In 2014, the LMSOA filed a lawsuit in Claiborne County Circuit Court against then owners of Lot 824 in Lone Mountain Shores. The 2014 LMSOA lawsuit sought to prevent the owners of Lot 824 from continuing to operate a bed-and-breakfast out of the home located on Lot 824.

31. The 2014 LMSOA lawsuit stated the owners of Lot 824 were operating their home as a full-service/all-inclusive bed-and-breakfast with on-site employees to prepare meals and provided additional services to guests. The LMSOA alleged these activities were in violation of the 2013 Amended and Restated Declaration.

32. Notably, there were several Lone Mountain Shores lot owners in 2014 who had been short-term renting their respective homes for years (just as the Plaintiffs in this case). These lot owners did not provide full-service accommodations as did the owners of Lot 824. The LMSOA did not name these lot owners as defendants in the 2014 lawsuit, nor did the LMSOA seek to prevent these lot owners from continuing their short-term renting in 2014.

33. In fact, in response to written discovery in the 2014 lawsuit, the then-LMSOA President acknowledged that LMSOA allowed regular short-terms rentals (as opposed to full-service bed-and-breakfast rentals). (See Exhibit 3 to Complaint.)

34. The then-President's acknowledgment occurred in July 2017 in response to a question asking how Lot 824's rental operation was "different than other lots operating as short-terms rentals in Lone Mountain Shores Subdivision." The then-President responded that Lot 824's "pricing varied based upon the number of guests", which was "unlike other short-term rental properties in the subdivision." (Exhibit 3 to Complaint)

35. Lone Mountain Shores Owners Association, Inc. (hereinafter "LMSOA") is a Tennessee non-profit corporation governed by the "Bylaws of Lone Mountain Shores Owners

Association, Inc. (Revision 2020)(hereinafter “By-Laws”), a copy of which is attached as “Exhibit 4” to this Complaint.

36. In accordance with the By-Laws, LMSOA has a five-member board of directors that consists of the following positions: President, Vice-President, Treasurer, Secretary, and Architectural Review Committee Liaison.

37. Each member of the board of directors is elected by LMSOA member vote and serves a two-year term.

38. The powers and duties of the board of directors are set forth in Article III, Section 12 of the By-Laws. Those duties include, among other things, a duty to “comply with the instructions of the majority of the Owners, as expressed in a resolution duly adopted at any annual or special meeting of Owners.” (By-Laws, Article III, Section 12(k).)

39. Article II, Section 9 (“Voting Requirements”) of the By-Laws governs actions upon any matter voted upon. It states as follows:

“(a) Voting by written ballot is approved if a majority of Owners responding vote in favor of the action.

(b) Voting at a meeting by Owners is approved if a majority of the Owners in attendance vote in favor of the action.”

40. On October 2, 2021, the board of directors sent a ballot to LMSOA members which consisted of four ballot items: one proposed change to the By-Laws and three proposed changes to Covenants for Lone Mountain Shores.

41. At the time the ballot was sent, the board of directors stated to LMSOA members that the proposed changes to the By-Laws and Covenants had been reviewed and approved by the board of directors.

42. Item 4 on this ballot proposed an amendment to the By-Laws as follows:

Owners of Rental Property shall be required to Register their property for rental and require owners who rent their properties to

provide renters with a copy of the LMSOA Rental Requirements. Specific language and requirements relating to each topic shall be contained in the Board Policies and procedures.

History -The Rental Committee, owners and board identified that there are no requirements for owners who rent to provide to renters a copy Of LMSOA rental requirements. Additionally, there is no method to track the number of rentals within LMSOA. The board supports knowing who is renting within LMSOA and ensuring that owners who rent provide a set of minimum requirements for renters to follow while renting within LMS. Following is the language proposed for registering rental properties along with LMSOA rental requirements.

43. The results of the vote on ballot Item 4 were purportedly one hundred sixty-seven (167) in favor and seventy-six (76) against.

44. Ballot Item 3, which concerned an amendment to Section 6.32 of the Covenants, also received a majority vote in favor, although the board of directors has refused to disclose the actual vote totals.

45. On December 8, 2021, Defendant Izbrand certified and recorded the amendment to the Covenants approved by ballot Item 3 in the Claiborne County Register's Office.

46. However, as of this writing, the board of directors refuses to adopt and approve ballot Item 4, which was approved by a majority of the voting owners in accordance with the LMSOA By-Laws.

47. The board of directors has one sole reason for refusing to adopt ballot Item 4: personal preference. Each board member has a personal preference that short-term rentals be prohibited in Lone Mountain Shores, and the defendant board members are intentionally choosing not to formally adopt ballot Item 4 because each defendant board member opposes the measure.

48. Over the next several months, Plaintiffs made multiple inquiries to the individual defendant board members requesting the board of directors formally adopt ballot Item 4 and seeking explanation as to why the board of directors repeatedly refused to do so.

49. During LMSOA meetings in April, May, June, July, August, and September 2022, Plaintiffs and other members of LMSOA requested the board formally adopt ballot item 4. The board refused each request.

50. Additionally, during these meetings, Defendants intentionally and abruptly adjourned the meetings when Plaintiffs and/or other LMSOA members broached the topics of adopting ballot item 4 and continuance of short-term rentals in Lone Mountain Shores. Defendants had no reasonable justification to intentionally and abruptly adjourn these LMSOA meetings and instead did so to prevent Plaintiffs and other LMSOA members from speaking in support of short-term rentals in Lone Mountain Shores.

51. Moreover, Defendant Izbrand repeatedly omitted Plaintiffs and other LMSOA members' requests for adoption of ballot item 4 and discussion of short-term rentals in the respective meeting minutes.

52. In February 2021, the LMSOA board of directors conducted a survey of all LMSOA members as to whether the LMSOA members supported short-terms rentals in Lone Mountain Shores.

53. In response to this survey, approximately 77% of owners indicated they wished to permit short-term rentals in Lone Mountain Shores.

54. At some time in approximately December 2021, Defendant Jonckheere informed real estate agent Bobby Ellison, who serves as a real estate agent for purchase/sale of home in Lone Mountain Shores, that the LMSOA board of directors had made the decision to prohibit short-term rentals in Lone Mountain Shores.

55. In March 2022, Defendants informed Mr. and Ms. Vanderhoof that the board of directors had no intention to prohibit short-term rentals, and Mr. and Ms. Vanderhoof should rent their property going forward.

56. In reliance on Defendants' statement, Mr. and Ms. Vanderhoof spent approximately \$20,000 to renovate their home and prepare the home for short-term renting. Mr. and Ms. Vanderhoof would not have made this expenditure and taken this action had Defendants been truthful regarding Defendants immediate intention to prohibit short-term rentals in Lone Mountain Shores.

57. In early 2022, Plaintiffs Michelle and David Norcross were in the process of purchasing a property in Lone Mountain Shores to be utilized as a short-term rental property and sought clarification from the LMSOA board of directors as to whether the board of directors intended to prohibit short-terms rentals.

58. In February 2022, the Norcross Plaintiffs made several attempts to contact Defendant Jonckheere concerning this issue via email and telephone but were repeatedly ignored by Defendant Jonckheere. Prior to the March 2022 board meeting, Ms. Norcross again attempted to call Defendant Jonckheere. However, Defendant Jonckheere had blocked Ms. Norcross' phone number.

59. During the March 2022 LMSOA meeting, Defendant Jonckheere informed the Norcross Plaintiffs and everyone else in attendance that the LMSOA board of directors were not going to take action to prohibit members from renting their homes on a short-term basis.

60. However, when Defendant Jonckheere made these statements during the March 2022 LMSOA meeting, Defendant Jonckheere and his co-Defendants knew Defendant Jonckheere's statement was false. Defendant Jonckheere's statement regarding short-term rental approval was made to Mr. and Ms. Norcross and others in attendance with the specific intention of inducing Mr. and Ms. Norcross into purchasing their property in Lone Mountain Shores. Mr. and Ms. Norcross specifically relied upon Defendant Jonckheere's statement when making the decision to purchase their property in Lone Mountain Shores.

61. Prior to making this statement to Mr. and Ms. Norcross, the Defendants had all discussed and determined their intention to take any action necessary to prohibit short-term rentals in Lone Mountain Shores as soon as possible.

62. Additionally, each and every Defendant had already discussed and agreed that each Defendant would misrepresent to any prospective purchaser, or any person inquiring, that Defendants were not going to take action to prohibit short-term rentals in Lone Mountain Shores.

63. Each and every Defendant was aware of Defendant Jonckheere's false statement to Mr. and Ms. Norcross, and each and every Defendant participated in planning to make these false statements to prospective buyers and/or any other person inquiring about short-term renting in Lone Mountain Shores.

64. In July 2022, Defendant Armstrong contacted prospective buyers of a home in Lone Mountain Shores, after the buyers had signed a purchase and sale agreement, and informed the buyers that LMSOA was no longer permitting short-term rentals. Defendant Armstrong took this action and made this statement without any proper purpose and for the sole intention of interfering with the seller's contract to prevent the sale from closing.

65. On August 8, 2022, the board sent "Cease & Desist" letters to Plaintiffs, with the exception of at least the Vanderhoof Plaintiffs, as well as other LMSOA members, which threatened the letter recipients to "immediately cease and desist" any "continued action on your part to use your property as a short-term rental." These "Cease & Desist" letters threatened that if the recipients did not comply, the "Board will...pursue legal claims against you and move to enforce the Covenants." (See Exhibit 5 to Complaint.)

66. Interestingly, less than six months before sending these "Cease & Desist" letters, Defendant Jonckheere had stated to Plaintiffs and other LMSOA members during LMSOA meetings in March and April 2022 that the board was not going to "outlaw" short-term rentals.

67. Defendant Jonckheere knew when he made these statements regarding not “outlawing” short-term rentals that, in-fact, Defendants primary purpose since being elected to the board was to eliminate short-terms rentals in Lone Mountain Shores.

68. All Defendants were present and heard Defendant Jonckheere make these false statements to Plaintiffs and other LMSOA members in 2022, and all Defendants knew Defendant Jonckheere’s statements were false when Defendant Jonckheere made these statements.

69. In-fact, all Defendants, including Defendant Jonckheere, had previously discussed and agreed that Defendants would intentionally mislead Plaintiffs and other LMSOA members by telling Plaintiffs and other LMSOA members that the board was not going to “outlaw” short-term rentals.

70. Additionally, during a January 2023 LMSOA meeting, Defendant Jonckheere knowingly made another false statement to Plaintiffs and other LMSOA members when Defendant Jonckheere stated the board had offered a “grandfather” option to Plaintiffs and other LMSOA members who utilize short-terms rentals, which would allow Plaintiffs and other LMSOA members to continue utilizing short-term rentals with the Board’s approval. Defendant Jonckheere stated Plaintiffs and other LMSOA members had “turned down” this “grandfather” option.

71. Defendant Jonckheere never offered this “grandfather” option to Plaintiffs nor any other LMSOA members. Accordingly, Plaintiffs nor any other LMSOA members “turned down” this supposed offer from Defendant Jonckheere.

72. On September 11, 2022, Defendant Nave traveled to a community dock within Lone Mountain Shores in which Defendant Nave knew Plaintiff Fred Maess was utilizing at the time. Upon arrival, Defendant Nave began loudly swearing at Mr. Maess and threatening Mr. Maess not to utilize the community dock which Mr. Maess has a right to use as a member of LMSOA.

73. Defendant Nave's actions were taken with the sole intent of intimidating Mr. Maess and further dissuade Mr. Maess from continuing to utilize his property as a short-term rental in Lone Mountain Shores.

74. On November 10, 2022, the LMSOA board of directors (who are Defendants in this action) filed a lawsuit in Claiborne County Circuit Court against Plaintiffs and other LMSOA homeowners in which the board of directors sought a permanent injunction prohibiting Plaintiffs and the other named parties from continuing to utilize their homes as short-term rentals.

75. Notably, the board of directors failed to name as defendants multiple LMSOA members who had used their property as a short-term rental in their November 2022 lawsuit.

76. The LMSOA board of directors, i.e., the Defendants in this action, intentionally chose to sue Plaintiffs and not other short-term renters because the board of directors sought to use the legal system to harass Plaintiffs and cause Plaintiffs to incur exorbitant legal fees and other costs in defense of the board of directors' lawsuit. The Defendants in this action chose to name Plaintiffs solely due to the Defendants ill-will and malevolent feelings toward Plaintiffs.

77. Additionally, Defendants did not provide the Vanderhoof Plaintiffs with a cease desist letter or any notice whatsoever prior to Defendants deciding to file their lawsuit against the Vanderhoof Plaintiffs in November 2022.

78. Article X ("Enforcement of LMS Governing Documents), Section 10.03 of the 2021 amended and restated LMS covenants mandates that LMSOA provide "reasonable notice and an opportunity for a hearing" before the board of directors before LMSOA may initiate legal proceedings against any LMSOA member for violations of the covenants. Article X, Section 10.03 states as follows:

"Failure to comply with the LMS Governing Documents shall be grounds for an action by the Association to recover damages or for injunctive relief to cause any such violation to be remedied, or both. Reasonable notice and an opportunity for a hearing before the Board

shall be given to the delinquent party prior to commencing any legal proceedings.”

(See Exhibit 6 to Complaint.)

79. Defendants intentionally ignored this reasonable notice requirement and initiated the November 10, 2022 lawsuit against the Vanderhoof Plaintiffs without providing any notice whatsoever to the Vanderhoofs as required by the LMS covenants.

COUNT I

(Intentional Misrepresentation - Fraud)

80. Plaintiffs re-alleges Paragraphs 1-79 of this Complaint as if fully set forth herein.

81. Defendant Jonckheere’s statements to Plaintiffs Vanderhoof in March 2022 and to everyone including Plaintiffs Norcross in the March 2022 LMSOA meeting regarding the LMSOA board of directors’ assurances that the LMSOA board of directors were not going to prohibit short-term rentals were false, and Defendant Jonckheere knew the statements were false when he made them. Defendants had already decided to prohibit short-term rentals in Lone Mountain Shores when Defendant Jonckheere made these statements.

82. Defendant Jonckheere, and all other Defendants, knew that Plaintiffs Vanderhoof and Plaintiffs Norcross were going to rely upon Defendant Jonckheere’s statements to their respective detriment when Defendant Jonckheere made these false statements of fact to Plaintiffs Norcross and Plaintiffs Vanderhoof.

83. In reliance upon Defendant Jonckheere’s statements, Plaintiffs Norcross purchased their home in Lone Mountain Shores to use as a short-term rental, an action Plaintiffs Norcross would not have taken had Defendant Jonckheere been truthful concerning the board of directors’ intent to immediately prohibit short-term rentals in Lone Mountain Shores.

84. In reliance upon Defendant Jonckheere’s statements, Plaintiffs Vanderhoof expended approximately \$20,000 on home renovations to their home in Lone Mountain Shores to

use as a short-term rental, an action Plaintiffs Vanderhoof would not have taken had Defendant Jonckheere been truthful concerning the board of directors' intent to immediately prohibit short-term rentals in Lone Mountain Shores.

85. As a direct and proximate result of Defendant Jonckheere's actions, Plaintiffs suffered monetary damages including costs associated with purchase and renovation of their respective property, attorney fees, and diminution in value of Plaintiffs' property.

COUNT II

(Civil Conspiracy)

86. Plaintiffs re-allege Paragraphs 1-85 of this Complaint as if fully set forth herein.

87. Each and every Defendant in this case conspired with one another and agreed to make affirmative and false statements of fact concerning short-terms rentals to each and every Plaintiff on multiple occasions as described herein in the year 2022 with the intention of causing monetary damage to each Plaintiff.

88. Each and every Defendant conspired with one another and agreed no later than 2022 to engage in a concerted effort to harass Plaintiffs based solely upon Defendants personal dislike of Plaintiffs and Plaintiffs' decision to continue using their respective properties as short-term rentals.

89. Each and every Defendant conspired with one another and agreed to file suit against the Vanderhoof Plaintiffs in November 2022 knowing that the Vanderhoof Plaintiffs had not been provided with reasonable notice and an opportunity for a hearing as required by the LMS covenants.

90. Defendants' actions in conspiring to commit fraud, harassment, and due process violations against Plaintiffs has caused Plaintiffs to suffer monetary damages including loss of rental income, diminution in value of Plaintiffs' properties, and attorney fees.

COUNT III

(Intentional Breach of Fiduciary Duty)

91. Plaintiffs re-allege Paragraphs 1-90 of this Complaint as if fully set forth herein.

92. Defendant Jonckheere intentionally breached his fiduciary duties of good faith and loyalty to Plaintiffs when Defendant Jonckheere made false statements of fact to Plaintiffs in March 2022 and January 2023 as described herein.

93. All Defendants are guilty of intentionally breaching their fiduciary duties of good faith, loyalty, and fair dealing to Mr. and Ms. Vanderhoof when Defendants chose to initiate the November 2022 lawsuit against Mr. and Ms. Vanderhoof when Defendants knew Mr. and Ms. Vanderhoof had not been provided notice of the Vanderhoofs' alleged covenant violation as required by Article X, Section 10.03 of the LMS covenants.

94. As a direct result of Defendants' breach of their fiduciary duties to Plaintiffs, Plaintiffs have suffered damages of costs associated with purchasing their respective properties, attorney fees, court costs, and diminution in property value.

COUNT IV

(Abuse of Process and Violation of Due Process)

95. Plaintiffs re-allege Paragraphs 1-94 of this Complaint as if fully set forth herein.

96. Defendants filed their November 2022 lawsuit against Plaintiffs for the sole and improper purpose of harassing Plaintiffs, causing Plaintiffs to spend thousands of dollars on attorney fees, and interfering with Plaintiffs' ability to rent and/or sell their homes.

97. Defendants also filed their November 2022 lawsuit against Plaintiffs in this case when Defendants knew one or more of the Plaintiffs in this case were not short-term renting their home in Lone Mountain Shores.

98. Defendants specifically targeted Plaintiffs due to Defendants malevolent personal feelings toward Plaintiffs and intentionally omitted multiple other LMSOA members who had short-term rented without any reasonable justification for doing so.

99. Defendants violated Mr. and Ms. Vanderhoofs' due process rights guaranteed by the LMS covenants when Defendants filed their November 2022 lawsuit against the Vanderhoofs without providing the Vanderhoofs with reasonable notice and opportunity for a hearing as mandated by the LMS covenants, which caused the Vanderhoofs to incur damages of attorney fees and court costs to defend against the lawsuit.

DAMAGES

100. Plaintiff re-alleges Paragraphs 1-99 of this Complaint as if fully set forth herein.

101. The Defendants' acts and omissions set forth in this Complaint were willful, intentional, and malicious.

102. For these reasons, this Honorable Court should assess punitive damages against Defendants in an amount sufficient to punish Defendants for such conduct and deter Defendants and others in the future from ever engaging in this type of conduct in the future.

103. Plaintiffs seek damages from these Defendants, both jointly and severally, for the following:

- (a) monetary amounts of no less than \$25,000 spent during the purchase and renovation of Plaintiffs' homes done in reliance upon Defendants' false statements of fact;
- (b) attorneys' fees and costs incurred defending the November 2022 lawsuit in amount exceeding \$20,000; and
- (c) punitive damages.


PRAYER FOR RELIEF

WHEREFORE, PREMISES CONSIDERED, Plaintiffs pray as follows:

- (i) For service of process to issue requiring Defendants to answer this Complaint within the time prescribed by law;
- (ii) For a trial by jury on all of Plaintiffs' claims against Defendants;
- (iii) That this Honorable Court enter a judgment against Defendants, jointly and severally, declaring that Defendants are guilty of the wrongful acts, omissions, and violations alleged in this Complaint;
- (iv) That this Honorable Court award Plaintiffs compensatory damages in the amount of \$150,000;
- (v) That this Honorable Court award Plaintiffs punitive damages in the amount of \$450,000;
- (vi) That Plaintiffs be awarded all attorneys' fees and costs incurred in the prosecution of this matter;
- (vii) That Plaintiffs be awarded pre-judgment and post-judgment interest; and
- (viii) That Plaintiffs be awarded any and all additional relief as this Honorable Court deems just.

Respectfully submitted,

TRAMMELL, ADKINS & WARD, P.C.

By 
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COST BOND

We acknowledge ourselves as surety for all court costs and taxes in this cause and in accordance with Tennessee Code Annotated § 20-12-120.

TRAMMELL, ADKINS & WARD, P.C.

By 
Ryan L. Sarr

Section 2.14 **"Single Family Residential Purposes"** shall mean the property, consisting of just one primary Dwelling and all ancillary buildings on it shall be occupied by just one legitimate single housekeeping unit as distinguished from unaffiliated individuals or groups occupying a motel, hotel, bed & breakfast, or boardinghouse.. Additionally, allowances are made for one accessory living quarters, such as a mother-in-law suite, without violating the "single family residential use" provided this secondary living quarters meets the requirements of Section 6.05 of these Covenants. Any rental accommodations and services such as those provided by hotels, motels, bed & breakfasts, rooming or boarding houses, apartment buildings or condominiums are excluded by this definition.

ARTICLE III THE ASSOCIATION

Section 3.01 Every Owner shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 3.02 **Board of Directors.** Members of the Association shall elect a Board of Directors (the **"Board"**), which shall govern the Association. The Board shall consist of five (5) members (each an **"Officer"**), all of whom must be Owners in good standing with the Association. The Board of Directors shall consist of a President, Vice-President, Secretary, Treasurer, and an additional member who shall also serve on the Architectural Review Committee (the **"ARC"**) as the liaison between the Board and the ARC. The Board shall: (a) have the responsibility of overseeing all functions of the Association as stated in these Covenants; (b) be responsible for collecting all Association Assessments; and (c) develop and amend the Association Bylaws consistent with these Covenants. Furthermore, the Board shall be responsible for overseeing the members of the Architectural Review Committee and any other committees it may appoint. The Board shall also appoint all committee members other than the ARC liaison who is elected by the Owners. Board members shall hold office for a term of two years. Board members shall hold office until their successor has been elected or appointed, unless removed from office pursuant to Article III, Section 8 of the Bylaws.

Section 3.03 **Association Records.** Upon written request to the Association by any Owner of a lot or any, mortgagee, or guarantor of a first mortgage on any Lot, or the insurer of improvements on any Lot the Association shall make available for inspection current copies of the Association's documents, books, records, and financial statements. The Association may also make available to the prospective purchasers current copies of the Association's documents, including rules governing the use of lots and the most recent annual financial statement, if such is prepared. The Board, including any committees, is not required to make available correspondence between the Board, a committee and individual Association members

"Available" as used herein means available for inspection upon written request, with reasonable notice, during normal business hours, at the Association's Community Center or such other location as the Association may reasonably decide.

Section 6.03 **Minimum Residential Size for Interior Lots.** Each Dwelling erected on a Lot that is not a Lakefront Lot must contain a minimum of 1,200 square feet of heated living space (excluding garages, porches, overhangs, etc.) inclusive of all stories, with the first floor to contain not less than 800 square feet.

Section 6.04 **Residential Use Only.** All Lots shall be used for single family residential purposes only, and no commercial use is permitted. This restriction is not to be construed to prevent rental of any Lot or any dwelling for private single family residential purposes or to prevent an Owner from conducting home occupations in a Dwelling, provided such occupations: (a) are subordinate to the primary residential use; (b) occupy no more than twenty percent (20%) of the Dwelling's floor area; and (c) employ not more than two (2) persons.

Examples of prohibited commercial uses of a Lot or any dwelling include providing the services of or operating as a restaurant, an inn, a boarding house, or a bed-and-breakfast or providing other atypical rental services of a commercial nature.

Examples of non single family residential purposes uses of a Lot or any dwelling include, but are not limited to: occupancy by two or more unaffiliated individuals or groups that function as independent housekeeping units; owners or their agents occupying any part of the property at the same time as renters; utilizing the Lot or any dwelling as a fraternity, sorority or dorm complex; or using the Lot or any dwelling as a Group Home or institution of any kind.

All provisions of these Covenants and of any rules, regulations, or use restrictions promulgated pursuant hereto that govern the conduct of Owners and that provide for sanctions against Owners also apply to all occupants of any Lot.

Section 6.05 **Dwellings per Lot.** All Lots are restricted to one single-family Dwelling per Lot. This restriction does not prevent the inclusion of one accessory living quarters within a Dwelling or other ARC-approved structures on the same Lot for use as an independent living facility with provision for food preparation, sanitation, and sleeping, provided that: (a) the accessory living quarters must be used in conjunction with the primary residence for single family purposes only; and (b) the accessory living quarters are subordinate in size and function to the primary residence. Accessory living quarters shall be subject to the following standards:

- a. Only one accessory living quarters shall be allowed upon a lot;
- b. Accessory living quarters can not be rented independently of the primary living quarters or used to house anyone unaffiliated with the rental group (including owners of the property, members of their family or their invited guests) during the rental of the primary living quarters; and
- c. The addition of accessory living quarters on a Lot must be approved by the ARC

Section 6.06 **Types of Dwellings Prohibited**. The construction of any type of multi-family residence, such as a condominium, duplex, triplex, apartment building, townhouse, lodging house, clubhouse, or any similar structure, is prohibited. Modular homes, mobile homes, manufactured homes, motor coaches, recreational vehicles, house trailers, travel trailers, and stand-alone basements are also prohibited for permanent Dwellings. This prohibition does not preclude use of panelized construction, characterized by wall sections or floor and roof trusses that are constructed at other sites and transported to an Owner's Lot and assembled at the building site, provided that the ARC has first approved such construction. [Manufactured and modular constructed sheds, garages, and outbuildings may be permitted on a case-by-case basis, provided they meet the other requirements for these structures and are approved by the ARC.] Also, during the construction phase of a Dwelling an Owner may temporarily place a recreational vehicle, motor coach, or travel trailer upon his or her Lot and reside in it for a maximum of one (1) year, provided that construction of the Dwelling is progressing during such occupancy.

Section 6.07 Rental. Lots and Dwellings may be rented only for private single-family residential purposes subject to the following provisions:

- a. The renting to unaffiliated individuals or groups at the same time is prohibited;
- b. Tenants are required to abide by all LMS Governing Documents;
- c. Owners are responsible for the actions of their tenants. Each Owner shall take appropriate steps and should put in place additional rules, limitations and restrictions as necessary to ensure that tenants do not conduct deleterious activities or otherwise create a nuisance to other Owners;
- d. All rules, regulations, or use restrictions of these Covenants promulgated pursuant hereto that govern the conduct of Owners and that provide for sanctions against Owners also apply to all occupants of any Lot.

Section 6.08 **Review By Architectural Committee**. The Architectural Review Committee shall exist as provided in Article VII of these Covenants. Before construction may begin, all proposed plans of Dwellings, garages, outbuildings, sheds, and other property improvements to be erected in Lone Mountain Shores must be submitted to the ARC for its approval in accordance with the LMS Governing Documents.

Section 6.09 **Drainage and Erosion Control**. No construction on any Lot may be done in such a way as to materially increase the drainage of water upon any adjoining Lot.

Section 6.10 **Fire Prevention and Control**. Houses in wooded areas are vulnerable to wildfire and careless debris burning or fireworks displays are a major cause of woodland fires. All occupants of the Property shall exercise extreme caution with all potential sources of wildfire ignition and;

- a. Any open-air fires on the Property should not be left unattended at any time.
- b. The Tennessee Department of Agriculture, Division of Forestry protects the state's forest and woodlands. Since woodland fires do occur year round, if at any time the Division of Forestry Fire Danger Rating, as delineated on the Departments official web site, is above Moderate for Eastern TN, open-air debris fires or fireworks displays are prohibited on the Property.
- c. At certain times of the year, anyone starting an open-air fire on the Property must by TN law secure a burning permit from the Division of Forestry. Members also should follow any local burning ordinances as these regulations may supersede the Division of Forestry's burning permit program.

expenses, including trial and appellate attorney's fees and costs reasonably incurred by or imposed upon any Board member, Committee member, or Officer in connection with any action, suit, or other proceeding (including the settlement of any suit or proceeding if approved by the Board) to which he or she may be party by reason of being or having been a Board member, Committee member, or Officer. Board members, Committee members, and Officers are not liable for any mistake of judgment, negligent or otherwise, except for their own willful malfeasance, misconduct, or bad faith. Board members, Committee members, and Officers have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent of that such Board member, Committee member, or Officer is also an Association Member), and the Association shall indemnify and forever hold each such Board member, Committee member, or Officer free from and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein is not exclusive of any other rights to which a Board member, Committee member, or Officer may be entitled. With respect to claims or liabilities arising out of service as a Board member, Committee member, or Officer, the Association shall indemnify and advance expenses to each such present and future Board member, Committee member, or Officer (and his or her estate, heirs, and personal representatives) to the fullest extent allowed by the laws of the State of Tennessee, both as now in effect and as hereafter adopted or amended.

By signing below the duly elected representative(s) of Lone Mountain Shores Owners Association, Inc. affirm that the Material Changes to this document were approved by unanimous vote of the Board and the affirmative vote of fifty- five percent (55%) of the Owners voting by absentee ballot.

IN WITNESS WHEREOF, the said Lone Mountain Shores Owners Association, Inc., hereinbefore known as Declarant, has hereunto caused these presents to be executed on this the 12th day of August, 2013.

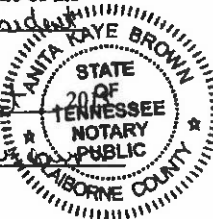
LONE MOUNTAIN SHORES OWNERS
ASSOCIATION, INC.
BY: David A. Kennedy

STATE OF TENNESSEE:
COUNTY OF CLAIBORNE:

Personally appeared before me, the undersigned authority, a Notary Public in and for said County and State, as aforesaid, David N. McNeal and David A. Kennedy, with whom I am personally acquainted, who proved to me by satisfactory evidence of identity, and who, upon oath, acknowledged himself/herself to be the President and Vice President for Lone Mountain Shores Owners Association, Inc., the within named bargainer, and that as such, he/she has been authorized to execute the foregoing instrument on behalf of said corporation for the purposes therein contained, by signing the name of the corporation by himself/herself as such President and Vice President.

WITNESS my hand and official seal at office this 24th day of August

Anita Kaye Brown



Material Changes Q&A (05/10/2013)

This document provides synopses of the questions and inquiries regarding the recommended Material changes to the Governing Documents of LMSOA. Along with each item listed the Board and Document Review Committee has provided the information and discussions used in the development of the change for your consideration. As you review each Material change to the Governing Documents you should consider all inputs in determining the merits of the recommended amendments. The Board encourages owners to review and discuss the items and, if required, we will provide any clarification required. Any restriction or limitation delineated in the Governing Documents should be viewed as providing "mutually beneficial restrictions and protections for all owners" (a principal foundation of the Covenants). The Board and Document Review Committee welcome any and all questions. This document will be updated periodically as new questions are received so you should check back occasionally.

- 1) An owner submitted a question as to the method and timing of the voting on the Material Changes.

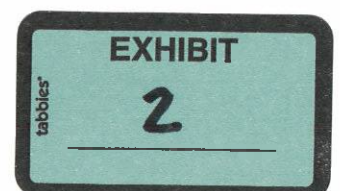
Following the current owners review process, and after sufficient time for owners questions and comments to be responded to by the Board, owners will be sent a package to vote on each Material Change. Each Material change will be voted on independently. Only those Material Changes that receive 55% of the respondents' votes will be implemented. Currently the Board is working towards a vote in early June.

- 2) An owner phoned in a question concerning the ability of the Association to implement new restrictions found in Section 6.10 Fire Prevention and Control and Section 6.22 No Wake Zones. The owner believes these controls are the purview of TVA and the state of Tennessee and therefore outside the authority of LMSOA.

These changes are a result of numerous owner complaints and the discussions at the focus group and annual meeting. The intent is to put in place reasonable controls that assure our members act responsibly to lessen the chance of a catastrophic woodland fire and prevent damage to and extend the life of our docks. There is no intention to control the general public. These provisions will not be in conflict with governmental agency rules and regulations.

- 3) An owner posted concerns over Article II Section 2.15 of the Covenants which is a Definition, "Single family residential purposes" and Article VI Section 6.05, items a, b, and c of the Covenants, which is a Standard of Land Use, "Dwelling per Lot".

General Information for consideration:



Currently the clause "Single Family Residential Purposes" is used as a restriction/ limitation under the "Residential Use only" provision of the Land Use Article. This provision has been included in the Governing Documents since their creation. No definition of this limitation has ever been included.

Through out the history of the Association, Boards and ARC Committees have interpreted this term and enforced the limitation inconsistently. Owners have had property improvement request rejected when a secondary living quarters was included and at other times these requests have been approved for construction. This inconsistent enforcement is because of the conflicting interpretations at different times of Residential Use provision.

Because of the lack of clarity in the documents, some owners believe the current Single Family Residential Purposes use restriction provides for prohibition of the construction of multiple living quarters; while others believe that the allowance of a property improvement consisting of multiple living quarters gives an implied right to use the secondary quarters without any restrictions or limitations.

The Board reviewed past practices, the 2003 legal opinion on Rental and brought the issue to owners during the focus group reviews of the documents. As a result the Board determined that to better assure a consistent and more predictable enforcement the term should be defined. The proposed definition was developed following a review of Tennessee relative court decisions and Knoxville zoning rules and regulations. If the term is left undefined in the Documents it will still be a Standard of Land Use limitation that owners will be required to adhere to, and the likelihood of variable interpretation and inconsistent enforcement will remain.

The specified owner claims:

"The proposed changes empower the board/ARC to determine interior design and use of individual dwellings and buildings." ...Currently "ARC approval is limited to external features."

"If you choose to have a separate apartment over a garage that is your choice and not subject to approval of the ARC. The same applies to say a basement apartment."

"All they do is intrude on your use and enjoyment of your property"..."Further, they provide no value or protection for the individual property owner..."

Specific limitation of the number of Dwellings or Dwelling Units (secondary living quarters) per lot were not contained in the Covenants in the past, however the ARC Guidelines contained specific restrictions between 11/2006 and 09/2010 to more specifically define and describe the design standards as directed by the Covenants.

It was established during the Governing Document review that these types of use restrictions do not align with the purpose of the ARC Guidelines, so they were removed with the intent of

clarifying and inserting them in the Covenants as a part of its revision, where they more appropriately belong.

The Residential Use provision has always been part of the Governing Documents and has stipulated all lots must be used for single family residential purposes only. It has always been in the Boards purview to enforce this restriction.

*It is accurate that the current Covenants, through Article VII, says the ARC should assure all property improvements conform and harmonize with any existing structures as to external design and quality, and that improvements and alterations which are completely within an existing building may be undertaken without ARC approval. It is also true that these stipulations **remain in place** in the proposed new revision.*

The proposed changes in question are to the Land Use Standards regarding Dwellings per Lot and deals with the use, not the construction of the secondary living quarters. The revision clarifies that the construction of a secondary living quarters is allowable, which is certainly not a universal interpretation of the current Governing Documents. It does provide for limitations in the number and size of the secondary living quarters to make clear that the construction of condominiums, motel, inns or boardinghouses is prohibited. It also reinforces and further clarifies the Residential Use provision. The inclusion of ARC approval of the secondary living quarters assures these limitations are complied with. It is important to remember that what is deemed a restriction to one owners use of property at times is a protection to another owners use of property and vice versa. The Board believes the proposed combination of these elements provides an owner reasonable use of their property while not adversely affecting the Association or another owner's right of enjoyment of the Property.

- 4) A question was raised on line over perceived impacts of the amended "Residential Use" provision on currently allowed rental practices;

"Many of the properties in LMS are currently rental properties. Often rented to multiple families or groups..." "Who you have as guests on your property, renters are also your guests, is also your business." There is "...no property value protection in the proposed changes."

First, there is clearly a distinction between renters and guest. A guest does not pay to stay and is viewed as an extension of the single family unit residing at the property. Renters are a source of income to the owner and present a riskier liability to the owner and the Association as demonstrated by adjustments to home owners' insurance premium.

In reviewing the Single Family Residential Purposes definition it should be noted that as long as a rental group occupies the property as one legitimate single housekeeping unit, regardless of blood relationships, they are considered to be using the property for single family residential purposes. A rental group functions as a legitimate single housekeeping unit when it shares expenses and responsibilities for activities at the property and has some type of affiliation whether it is friends, relatives, business associates or a similar association. The property is rented to the group, not to each individual or couple independently. The home is rented, not a room. This is consistent with the current permitted methods of rentals as provided for in the Covenants and therefore should have no adverse effects. This accepted type of renting is distinguished from unaffiliated individuals or groups functioning as independent housekeeping units or the renting of a room and sharing a common area as in a bed & breakfast or boardinghouse, or renting a single room as in occupying a motel or hotel. It should be noted that the renting at the same time to multiple independent groups or couples, or to persons who are not utilizing the property for residential purposes, has always been prohibited by the Covenants.

- 5) An owner suggested a different approach to the handling of Section 4.06 of the Covenants, "Emergency Assessments". Included in the suggestion was:
- a. That a newly developed process be created that will reduce the probability of such an action occurring and,
 - b. That a specific appropriate "action limit" be established if the operating fund falls or is expected to fall to less than \$\$\$ or %%% and,
 - c. To form a Financial Emergency Board that shall be established and given necessary procedural guidance and authority to take corrective action.
 - d. Prevent the use of Capital funds for noncapital expenditures.

The Board believes that there are preventative methods in place already and by following its fiduciary duties this situation should be avoided completely, not just reduced in probability. The suggestion ties Board discretion and action to a specific dollar figure or fixed percentage of an arbitrary ("appropriate") amount. The language of the current recommended revision was chosen to allow necessary flexibility for action on a sliding scale... the determining factor is the relationship of "funds in hand or on deposit" to an amount necessary to pay outstanding obligations. Neither figure can be predetermined.

Changing "Supplemental" to the term "emergency" was intended to and does imply exigent and dire circumstances. There are a number of failings that would have occurred if this were to happen. The need for rapid response to the "emergency" is inconsistent with the establishment of a secondary advisory board operating at the Boards direction. An additional oversight step would be added and there would be insufficient time for the process to be worked through. It is our belief that the Board is

the special committee suggested. This proposal seems to suggest an abdication of the Board's duties incorporated in the Governing Documents.

It should be noted that currently if this type emergency were to occur, there is not as much owner say/protection, so the current recommended change improves greatly and makes consistent the Boards response.

The existence of an "emergency assessment" is a renaming of an existing process and therefore a clarification. The addition of balanced budget and spending controls are a Material Changes.

- 6) There was a question received concerning the increase in boat/trailer storage on a lot in Section 6.15 of the Covenants, "Storage of Water Craft and Water Craft Trailers." Specifically, the concern was that the increased number of water craft from 1 to 2 does not seem to be justified based on the individual's observation of membership's water craft ownership. Additionally, there was a request to clarify why and by who was there a "willingness" to allow an increase in the permitted number of water craft.

The Board has had different observations as to the use of multiple water craft by owners and received feedback from the membership at focus group, annual meeting and questions directed to Board members at other venues indicating a desire for the increase. LMS is a lake side development and use of water craft is a dominate desire by many residents and visitors. Many of those living on the water appear to have multiple water craft. The current requirement to build a structure to house the 2nd boat/trailer seems more intrusive on the harmony of the development than the addition of a 2nd boat/trailer allowance. It should also be noted that if such storage resulted in a nuisance to or block the aesthetic views of another owner the Nuisance clause limitation could allow that owner relief.

- 7) A question was received asking why Covenant Section 6.15 "Storage of Water Craft and Water Craft Trailers" and 6.16 "Travel Trailers, Recreational Vehicles, and Utility Trailers" were not combined into one restriction and limitation.

While the Board agrees there may not be any aesthetic difference in the equipment in 6.15 and 6.16 there is a need to separate them because it allows the best voting choices. By separating them owners can agree or disagree with the modification of 6.15 without being forced to also agree or disagree with the new section 6.16.

It should be noted that the current documents only refer to boats/boat trailers (6.15) and therefore, by omission, the other items have no current restrictions or limitations other than if they are deemed a nuisance. By requiring these items be stored such that they do not present a nuisance to, or block the aesthetic views of another owner, this new restriction defines a specific nuisance and provides a solution that achieves a

mutually beneficial restriction and protection for owners (a principal foundation of the Covenants).

- 8) An owner suggested the elimination of all construction related signs, including contractor identification signs during construction.

The Board believes there could be owner benefits to these signs and is reluctant to make this change without due diligence and study. The contractor sign time limitation assures they do not create a long term issue and is not a change to the current documents.

- 9) An owner requested that any action noted within a restriction or limitation to remediate a violation of the Covenants meet the same standard as Article X, Section 10.04 "Remedies". Specifically, that "the action be taken on behalf of the Association and at the direction of the Board".

The Board believes that the Governing Documents gives any member of the Board or the ARC, acting on behalf of the Board, the right to remediate any violation of these Covenants and, in so doing, may not be held liable for trespass or any other tort arising from such action.

Among other things Article X says "... In addition to the remedies set forth above, any violation of the LMS Governing Documents gives the Board or an Officer, on behalf of the Association, the right to enter upon the offending Owner's Lot and take appropriate peaceful action to abate, remove, modify, or replace at the expense of the offending Owner, any structure, thing, or condition that may exist on the Owner's Lot in violation of the LMS Governing Documents... " The inclusion of the phrase "in addition to the remedies set forth above" would appear to tie these items all together, but to provide absolute clarity, the Board will add a reference of Article X to any specifically stated remedy in other restriction or limitations.

- 10) An owner noted that there is no time limitation for signs other than contractor signs and asked that other signs also be given a time limitation.

The Board notes that realtor "Sold" signs and ARC signs also have a time constraint on them in the recommended changes. The Board agrees that there are other signs such as realtor "For Sale" signs that are out dated that should be removed and may not be. Unfortunately, the Board knows of no practical way of assigning a time limit to these signs as there is no way that anyone but the owner and realtor knows when the contract period has ended.

It should also be noted that the current Governing Documents allows for NO realtor signs at all on the Property, other than those placed by the Declarant, who no longer exists.

- 11) An owner asked for clarification of the Board quorum requirements and the filling of Board vacancies in the Bylaws.

The Board reviewed the owners concerns and found they arose in part because the language regarding Board quorum was needlessly verbose and confusing. The Board agreed to simplify the wording to state a quorum of the Board is three.

- 12) An owner asked that the Board define the terms "Material" and "Nuisance" in the Bylaws.

The Board notes that both these terms are defined in Tennessee law and any definition within the Governing Documents would be supplemented by the legal definition and there fore plans no additional definitions of terms at this time.

- 13) An owner requested that the "10% of owners rule" used in a number of items such as calling for special meeting be changed to 10% of those voting in the most recent owner vote.

The Board notes that the current requirement would mean 58 of 584 owners would be necessary to ask for a special meeting. This seems a low threshold. If there aren't 58 concerned owners found, the issue likely would fail any vote of owners. Also, just because a vote on one issue draws low turnout it does not mean a vote on another issue would produce the same turn out. The Board believes all members have a right to vote in any call for vote and there for to assume less will respond is a mistake.

- 14) An owner asked that the commercial use limitation within the "Residential Use Only" restriction be expanded. Specifically the owner asserts that the intent of this commercial use limitation is to prevent excessive nonresidential traffic within the Association and therefore limitations on the type of home business that would cause additional traffic should be further controlled.

The Board does not agree that traffic control is a primary reason for this limitation. The Board would refer the owner to the review of items #3 and #4 above for our position and information on the Residential Use restriction.

- 15) An owner asked that additional monetary controls be included in the Bylaws. Specifically:
- a. That Held Funds and Deposits be limited to FDIC or similarly insured institutions;

- b. That an annual certified audit of the Annual Financial Statement be required;
- c. That any investments of Held Funds be limited to U.S. Treasury Securities or similar low risk instruments.
- d. That a balanced budget be required.
- e. That a level of operating reserves be established.

The Board believes these items fall within the Fiduciary Duties of the Board. The Board's Duty is to preserve the funds on hand, not to grow them through investments. That duty is what guides the Board in the selection of where and how funds are held and deposited.

This proposal seems to suggest an abdication of the Board's duties incorporated in the Governing Documents and is micro-management of the Board. It doesn't mean there is not merit to some of the suggestions. It merely reflects the opinion that if we start down the road of limiting Board discretion in these matters, there is no logical place to stop and ultimately we close off avenues to the exercise of some good and creative judgment of future Boards.

That being said, the Board agrees that requiring a certified annual audit of the Annual Financial Statement is reasonable and is currently an ongoing practice. Therefore this suggested change to the Bylaws will be added.

- 16) An owner asked that language be added to the Bylaws creating open Board meetings and encouraging member attendance at the meetings.

The Board notes that there is nothing in the Governing Documents that prevents a member from attending a Board meeting and therefore any change to the document would be unnecessary. The Board would also note that any Board reserves the right to meet in executive session when Association business dictates they do so and that if a member has an issue they wish discussed at a meeting they should notify the Board ahead of the meeting so an agenda item can be added and the Board prepared to respond.

IN THE CHANCERY COURT FOR CLAIBORNE COUNTY, TENNESSEE

LONE MOUNTAIN SHORES OWNERS
ASSOCIATION, INC., a Tennessee non-profit
corporation,

Plaintiff/Counter-Defendant,

v.

No.: 18369

THE ELIZABETH LYNN WEBB
REVOCABLE TRUST, a/k/a
"BestFreakingGolf-LakeTrip.com,"
a/k/a "Best Freaking Golf-Lake Trip";

DAVID ARTHUR HAVLOVIC, individually and
d/b/a BestFreakingGolf-LakeTrip.com,
a/k/a "BestFreakingGolf-Lake Trip"; and

BFGLT, LLC, a Tennessee limited liability company,
a/k/a BestFreakingGolf-LakeTrip.com, a/k/a
"Best Freaking Golf-Lake Trip,"

Defendants/Counter-Plaintiffs.

**PLAINTIFF'S SUPPLEMENTAL RESPONSE TO DEFENDANTS'
FIRST SET OF INTERROGATORIES AND REQUESTS FOR
PRODUCTION OF DOCUMENTS TO PLAINTIFF
LONE MOUNTAIN SHORES OWNERS ASSOCIATION, INC.**

Comes Lone Mountain Shores Owners Association, Inc. ("LMSOA" or "Plaintiff"), by
and through counsel, and for its supplemental responses to Defendants' First Set of
Interrogatories and Requests for Production of Documents, states as follows:

**GENERAL OBJECTIONS TO INTERROGATORIES
AND DEFINITIONS AND INSTRUCTIONS**

1. Plaintiff objects to these Interrogatories to the extent that they seek or purport to
seek (a) information within the work product doctrine, or any other privilege, including trial



case, particularly (f) and (g) in the second paragraph quoted above, have so expanded the information requested that many of the interrogatories are unduly burdensome.

42 F.R.D. at 4; *see also Evans v. Local Union 2127*, 313 F. Supp. 1354, 1360 (N.D. Ga. 1969) (“To require a corporate opponent to both answer the interrogatory and identify the source of its answer and any other source of information relating to the subject of the interrogatory, is, in the context of Title VII actions, unduly burdensome.”).

RESPONSE TO INTERROGATORIES

1. Identify all persons who have supplied the factual basis upon which the answers to these Interrogatories are made, including listing the specific Interrogatory for which the person provided the information.

RESPONSE: Howard Gromlich c/o Robert L. Bowman, Kramer Rayson LLP, P. O. Box 629, Knoxville, Tennessee, 37929 provided documents and information for all responses.

2. Identify all persons with knowledge relating to the matters alleged in the Complaint, and state the subject matter of the person’s knowledge.

RESPONSE: Current Board Members: President: Howard Gromlich c/o Robert L. Bowman, Kramer Rayson LLP, P. O. Box 629, Knoxville, Tennessee; Secretary: Ann Sharland c/o Robert L. Bowman, Kramer Rayson LLP, P. O. Box 629, Knoxville, Tennessee, 37929; ARC Liaison: Ned Koning, c/o Robert L. Bowman, Kramer Rayson LLP, P. O. Box 629, Knoxville, Tennessee, 37929; Vice President: Mark Rinehart c/o Robert L. Bowman, Kramer Rayson LLP, P. O. Box 629, Knoxville, Tennessee, 37929; Treasurer: Mary Beth Wiegman c/o Robert L. Bowman, Kramer Rayson LLP, P. O. Box 629, Knoxville, Tennessee, 37929. Former Board Members: Don Conklin c/o Robert L. Bowman, Kramer Rayson LLP, P. O. Box 629, Knoxville, Tennessee, 37929; Dan McNeal c/o Robert L. Bowman, Kramer Rayson LLP, P. O. Box 629,

Knoxville, Tennessee, 37929; Dave Kennedy c/o Robert L. Bowman, Kramer Rayson LLP, P. O. Box 629, Knoxville, Tennessee, 37929; Bob Hathaway c/o Robert L. Bowman, Kramer Rayson LLP, P. O. Box 629, Knoxville, Tennessee, 37929; Gene Chalfin c/o Robert L. Bowman, Kramer Rayson LLP, P. O. Box 629, Knoxville, Tennessee, 37929; Dianne Anderson c/o Robert L. Bowman, Kramer Rayson LLP, P. O. Box 629, Knoxville, Tennessee, 37929; and Rick Matheny c/o Robert L. Bowman, Kramer Rayson LLP, P. O. Box 629, Knoxville, Tennessee, 37929. Further answering, LMSOA refers Defendants to any individuals identified in the documents produced as LMSOA re Webb PRO 000001-000518.

3. Describe in detail the factual basis for any assertion that Lot 823 operated as a commercial resort, specifically how its operation was different than other lots operating as short-term rentals in Lone Mountain Shores Subdivision.

RESPONSE: Objection. This Interrogatory is vague and ambiguous because “different than other lots operating as short-term rentals” is not defined. It is also overly broad, unduly burdensome, not relevant, and not reasonably calculated to lead to discovery of admissible evidence. Without waiver of or prejudice to the foregoing objection, LMSOA refers Defendants to the website Best Freaking Golf-LakeTrip.com which is in the possession, custody, or control of Defendants.

SUPPLEMENTAL RESPONSE: Without waiver of or prejudice to the foregoing objection on response, LMSOA says, to its knowledge, “other lots” did not provide “All-inclusive services,” including on-site staff members, grocery shopping, meal preparations, and other services as described in the documents attached as LMSOA re Webb PRO 000519-000590. Additionally, unlike other short-term rental properties in the subdivision, Lot 823’s

pricing varied based upon the number of guests. LMSOA was unaware of other rentals in the subdivision that offered services and per-person pricing.

4. Identify all persons who have made complaints regarding the alleged commercial enterprise on Lot 823, including the specific complaint made by each identified member.

RESPONSE: Objection. This Interrogatory is vague and ambiguous because “complaints” is not defined. It is also overly broad, unduly burdensome, not relevant, and not reasonably calculated to lead to lead to discovery of admissible evidence. Without waiver of or prejudice to the foregoing objection, LMSOA refers Defendants to and incorporates herein by reference the documents produced as LMSOA re Webb PRO 000219-000220. Further answering, LMSOA states that several other members of the Association voiced objections at various times to Defendants’ commercial enterprise on Lot 823.

SUPPLEMENTAL RESPONSE: Without waiver of or prejudice to the foregoing response, LMSOA says the following individuals complained about the commercial enterprises on Lot 823.

Lillian Messier and Vernon Messier, 498 Wildcat Hollow, New Tazewell, Tennessee 37825. Others may be identified in LMSOA’s production documents or depositions of former Board Members.

5. Describe in detail the factual basis for any assertion that the approved construction plans for a garage appurtenant to the house on Lot 823 were not followed.

RESPONSE: LMSOA refers Defendants to and incorporates herein by reference the documents produced as LMSOA re Webb PRO 000393-000412.

relevant, and not reasonably calculated to lead to discovery of admissible evidence. This request also calls for production of documents protected by the Attorney Work-Product Doctrine, the Attorney-Client Privilege, and documents prepared in anticipation of litigation. Without waiver of or prejudice to the foregoing objections, LMSOA refers Defendants to and incorporates herein by reference the documents produced as LMSOA re Webb PRO 000001-000518.

VERIFICATION OF SUPPLEMENTAL INTERROGATORY RESPONSES

I, Howard Gromlich, after being duly sworn in accordance with law, swears under the penalty of perjury, that I am the President of the Lone Mountain Shores Owners Association, Inc., and I have provided the within Supplemental Answers to Interrogatories upon such information as is available to the said Lone Mountain Shores Owners Association, Inc., and that said answers are true and correct to the best of my knowledge, information and belief.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 15th day of July, 2017.


HOWARD GROMLICH

BYLAWS OF

LONE MOUNTAIN SHORES

OWNERS ASSOCIATION, INC.

Revision 2020

BK/PG: 1555/275-290
20004406

16 PGS:AL-BY LAWS	
KIM BATCH: 68658	09/25/2020 - 09:33 AM
VALUE	0.00
MORTGAGE TAX	0.00
TRANSFER TAX	0.00
RECORDING FEE	85.00
ARCHIVE FEE	0.00
DP FEE	2.00
REGISTER'S FEE	0.00
TOTAL AMOUNT	87.00

STATE OF TENNESSEE, CLAIBORNE COUNTY
KIMBERLY H. REECE
REGISTERED AGENT

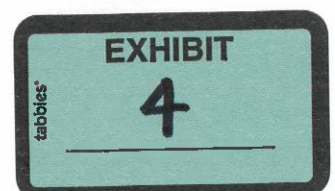


TABLE OF CONTENTS

ARTICLE I. Statement of Principles and Purpose

Section 1. General Purpose

Section 2. Purpose of Bylaws and Board

ARTICLE II. Members (Owners)

Section 1. Eligibility

Section 2. Succession

Section 3. Annual Meetings

Section 4. Special Meetings

Section 5. Notice of Meetings

Section 6. Waiver of Notice

Section 7. Voting

Section 8. Quorum

Section 9. Voting Requirements

Section 10. Action by Written Ballot

Section 11. Election of Board Members

ARTICLE III. Administration of Board of Directors

Section 1. Composition of Board

Section 2. Regular Meetings

Section 3. Special Meetings

Section 4. Notice of Meetings

Section 5. Waiver of Notice

Section 6. Quorum and Voting

Section 7. Vacancy

Section 8. Removal of Officers

Section 9. Action without Meeting

Section 10. Immunity

Section 11. Compensation

Section 12. Powers and Duties

Section 13. Non-Delegation

ARTICLE IV. Financial and Recordkeeping Matters

Section 1. Annual Budget

Section 2. Assessments

Section 3. Association Records

Section 4. Individual Statements of Account

Section 5. Discharge of Liens

Section 6. Holding Funds

Section 7. Association Records

Section 8. Annual Financial Statements

ARTICLE V. Contractual Powers

Section 1. Effect of Decision Involving an Interested Officer

Section 2. Quorum When an Interested Officer is Present

ARTICLE VI. Amendments

ARTICLE VII. Deeds of Trust

ARTICLE VIII. Principles of Interpretation

Section 1. Severability

- Section 2. Construction**
- Section 3. Headings**
- Section 4. Conflict between Documents**

ARTICLE IX. Miscellaneous Provisions

- Section 1. Registration of Mailing Address**
- Section 2. Notices**
- Section 3. Waiver of Notice**
- Section 4. Negotiable Instruments**
- Section 5. Deposits**
- Section 6. Limitation of Liability and Indemnification**

ARTICLE X. Definitions

BYLAWS OF LONE MOUNTAIN SHORES OWNERS ASSOCIATION, INC.

ARTICLE I

Statement of Principles and Purpose

Section 1. General Purpose. As described in the Restated Declaration of Covenants, Conditions, Restrictions, and Easements for Lone Mountain Shores (the "Covenants"), it is the intention of the Lone Mountain Shores Owners Association, Inc., a Tennessee nonprofit corporation ("LMSOA" or the "Association"), to impose upon its members mutually beneficial restrictions that allow reasonable use of their property that does not adversely affect the LMSOA or other owners of lots within Lone Mountain Shores, while helping preserve property values.

Section 2. Purpose of Bylaws and Board. The Lone Mountain Shores Board of Directors (the "Board") has been established, in part, for the purpose of defining, maintaining, and administering the standards of development and the mutually beneficial restrictions of use and development referenced in the Covenants. The Bylaws have been developed to provide the process by which the Board will execute its responsibilities.

ARTICLE II

Members (Owners)

Section 1. Eligibility. The members of the LMSOA consist of the respective property owners of the Lone Mountain Shores subdivision (the "Property"). A property owner (an "Owner") means the record owner, whether one or more persons or entities, of fee simple title to any lot in the Property, whether developed with improvements thereon or undeveloped (each a "Lot"). The words "Member" or "Members," as used in these Bylaws, refer to an Owner or Owners, as the case may be, as stated on the deed of record in the Claiborne County Register of Deed's Office. If an Owner is a land title holding trust under the terms of which all powers of management, operation, and control of the Owner's Lot remains vested in the trust beneficiary, then the Member is that beneficiary.

Section 2. Succession. The membership of each Owner terminates when such Owner ceases to own a Lot. Upon the sale, transfer, or other disposition of an Owner's ownership interest in the Property, such Owner's membership in the Association is automatically transferred to the new Owner as described on the deed of conveyance. Upon sale, transfer, or other disposition, the new Owner shall notify the Secretary of the Association.

Section 3. Annual Meetings. Annual meetings of the Owners shall be held at a time and place specified in the notice of such meeting. The annual meeting of Owners shall normally be held during the month of October. At the annual meeting, Owners shall receive reports on the activities and financial condition of the Association and transact such other business as may properly come before the meeting.

Section 4. Special Owners Meetings. The Association shall hold a special meeting of its Owners upon the call of the Board or the President of the Board, or upon the written demand(s) to the Secretary by Owners holding at least ten percent (10%) of all votes entitled to be cast on any issue to be considered at the proposed special meeting. Any call or demand for a special meeting must describe the purpose(s) for which the special meeting is to be held. Only business within that purpose may be conducted at such meeting.

Section 5. Notice of Meetings. The Association shall notify Owners of the date, time, and place of each annual and special meeting of Owners no fewer than (30, nor more than 60, days before the meeting date. The notice of a meeting shall also contain such other

information as may be required by these Bylaws. All notices will be mailed to the Owner's last known address according to Association records.

Section 6. Waiver of Notice. An Owner's attendance at a meeting:

- (a) Waives objection to lack of notice or defective notice of the meeting, unless the Owner at the beginning of the meeting (or promptly upon arrival) objects to holding the meeting or transacting business at the meeting; and
- (b) Waives objection to consideration of a particular matter at the meeting that is not within the purpose(s) described in the meeting notice, unless the Owner objects to considering the matter when it is presented.

Section 7. Voting. The aggregate number of votes of all Owners shall be equal to the total number of all Lots which are part of the Property and shall be divided among the respective Owners with one vote allocated to each Lot. If any Owner consists of more than one person or entity, the voting rights of such Owner may not be divided but must be exercised as if the Owner consisted of only one person or entity in accordance with the proxy or other designation made by the persons and/or entities constituting such Owner. A "Majority of the Owners" means the owners of more than fifty percent (50%) of the voting rights of all Owners.

Notwithstanding the foregoing, no Owner who is in default in the payment of any assessment will be entitled to exercise the right to vote until the Owner has cured such default. An Owner will be deemed to be in default if such Owner has not paid his or her assessments to the Association, or its designee, within 10 days after the date such assessments are due. An Owner may protest the amount of the assessment, but it still must be paid during the pendency of any protest to the Board.

Section 8. Quorum. Unless otherwise required by law, these Bylaws, or the Covenants, a quorum shall consist of the Owners present at a meeting either in person or by representation.

Section 9. Voting Requirements. Except as otherwise provided in these Bylaws or the Covenants, action on any matter voted upon is as follows:

- (a) Voting by written ballot is approved if a majority of Owners responding vote in favor of the action;
- (b) Voting at a meeting by Owners is approved if a majority of the Owners in attendance vote in favor of the action.

Section 10. Action by Written Ballot.

(a) Notwithstanding any other provision of these Bylaws, the following actions may only be taken by written ballot of Owners:

- (1) Election of members of the Board, as further provided in Section 11 below;
- (2) Approval of any new project that would require spending more than one-third of the total amount of Association dues assessed in the most recent year; and
- (3) Approval of any emergency assessment in an amount greater than \$125.00, in accordance with Article IV, Section 4.06, of the Covenants.

(b) Any action that may be taken at an annual or special meeting of Owners may be taken without a meeting if the Association delivers a written ballot to every Owner entitled to vote on the matter at their last known address. The written ballot shall set forth each proposed action and shall provide an opportunity to vote for or against each proposed action. All solicitations for votes by written ballot shall:

(1) State the percentage of approvals necessary to approve each matter, other than election of Board members; and

(2) Specify the time by which the ballot must be received by the Association to be counted.

Section 11. Election of Board Members.

(a) Qualifications for Candidacy:

(c) Each Member in good standing, who is not in default of any assessments owed to the Association, may run one (1) candidate in an election for an open position on the Board. A Member in default of any assessments owed to the Association shall not be permitted to run any candidate to fill a position on the Board. A Member shall not hold more than one (1) position on the Board at any given time and shall not run a candidate for a Board vacancy if the election could result in the Member and its representatives holding more than one (1) position on the Board at any given time.

(d) In order for the Member's candidate to qualify for election, the candidate must meet the following requirements, as verified by the Board:

i. The candidate must be either: 1) a natural person who is an Owner, as defined in Article II, Section 1; or 2) in the event that an Owner is an entity, the entity may designate one (1) representative of the entity who is a natural person having an ownership interest in the entity to run as a candidate for election to the Board. A Member shall not designate or run more than one (1) candidate for election to the Board during any election.

ii. The candidate shall only run for one (1) position on the Board at a time.

(e) If a Member owns more than one (1) lot in the Property, or has common ownership with any other Member, the Member shall not designate or run more than one (1) candidate for the Members of all lots having common ownership. For example, if a Member is a limited liability company that owns lot A and owns a fifty percent interest in lot B, lots A and B cannot have more than one (1) candidate running for election or holding a position on the Board at any given time on behalf of both lots A and B.

(b) Campaign. The association may, from time to time, permit qualified candidates to publish a biography, campaign statement, or other correspondence on the Association's website during campaigns to fill a vacancy on the Board. In the event that a candidate submits a document or any other information for publication on the Association's website, the statements contained in such document or information shall be limited to statements about that candidate and shall not refer to any other candidate.

(c) Election. Election of members of the Board of Directors shall be taken only by written ballot of Owners. Notwithstanding any other provision of these Bylaws,

the candidate receiving the most votes (a plurality) for any open position on the Board shall be elected to that position.

(d) **Write-In Candidates.** In the event of nonacceptance of nomination by all persons nominated for a specific Board position: a "write-in" line will be listed on the ballot. Only one person may be listed on this line; this individual must be eligible to hold the office to be elected. All write-in votes will be considered and processed by the Election Committee. After an eligibility check, the write-in candidate with the highest number of votes will be contacted by the Election Committee to verify their willingness to perform the duties of the office. If they accept, they will be elected to the position. If they decline, the write-in candidate with the next highest number of votes will be contacted with the same opportunity. The process will continue until either 1) a willing candidate is identified or 2) the Election Committee runs out of eligible write-in candidates. If there are no write-in votes, or if all write-in candidates decline, the LMSOA Board will have the right to appoint a qualified individual.

ARTICLE III

Administration of Board of Directors

Section 1. Composition of Board of Directors. The LMS Board shall consist of five members (each an "Officer"), all of whom must be Owners in good standing with the Association. The Board shall consist of a President, Vice President, Secretary, Treasurer, and a member who shall also serve on the Architectural Review Committee (the "ARC") as the liaison between the Board and the ARC. Board members shall hold office for a term of two years, unless removed from office pursuant to Article III, Section 8, and until their successor has been elected or appointed.

Section 2. Regular Meetings. Regular meetings of the Board may be held at such time and place as the President may determine from time to time, but no less frequently than once a year.

Section 3. Special Board Meetings. Special meetings of the Board may be called by the President or any two Officers.

Section 4. Notice of Meetings. Regular meetings of the Board may be held upon reasonable notice being provided by the President. Special meetings of the Board must be preceded by at least two days' notice to each Officer of the date, time, and place, but not the purpose, of such special meeting. Notice of any adjourned meeting need not be given if the time and place to which the meeting is adjourned are fixed at the meeting at which the adjournment is taken, provided that the period of adjournment does not exceed one month.

Section 5. Waiver of Notice. If an Officer attends or participates in a meeting, he or she waives any required notice of the meeting, unless the Officer at the beginning of the meeting (or promptly upon arrival) objects to holding the meeting or transacting business at the meeting and does not thereafter vote for or assent to action taken at the meeting.

Section 6. Quorum and Voting. A quorum of the Board consists of a majority, but no fewer than three Officers then in office before a meeting begins. If a quorum is present

when a vote is taken, the affirmative vote of a majority of the Officers present is the act of the Board, except as may otherwise be provided in these Bylaws or the Covenants.

Section 7. Vacancy. If a vacancy occurs on the Board the Board will appoint a replacement director to fill the vacancy or, at its discretion, the Board may decide that the replacement director should be elected by a vote of Owners. If the Directors remaining in office constitute less than a quorum of the Board, the replacement director(s) must be elected by a vote of Owners. Any director so appointed or elected to fill a vacancy shall hold office for a term equal to the unexpired term of the director succeeded.

Section 8. Removal of Directors. The Owners may remove any one or more directors, with or without cause, at a special meeting specifically called for that purpose.

Section 9. Action without Meeting. Action that is required or permitted to be taken at a meeting of the Board may be taken without such a meeting if all directors consent. If all directors so consent, the affirmative vote of the number of directors that would be necessary to authorize or take such action at a meeting shall be the act of the Board, except as may otherwise be provided in these Bylaws or the Covenants. Action taken between meetings be included in the minutes filed with the Association's records.

Section 10. Immunity. To the fullest extent allowed by the laws of the State of Tennessee, as now in effect and as hereafter adopted or amended, each present and future Officer (and his or her estate, heirs, and personal representatives) shall be immune from suit arising from the conduct of the affairs of the Association.

Section 11. Compensation. Members of the Board may receive no compensation for their services as directors, unless expressly provided for in resolutions duly adopted by the Owners.

Section 12. Powers and Duties. The Board shall have the following powers and duties:

- (a) To appoint the Officers in the event of a vacancy;
- (b) To administer the affairs of the Association and the Property;
- (c) To engage the services of an agent to maintain, repair, replace, administer, or operate the Property or any part thereof for all Owners, upon such terms and for such compensation and with such authority as the Board may approve;
- (d) To formulate policies for the administration, management, and operation of the Property;
- (e) To adopt rules and regulations, with written notice thereof to all Owners, governing the administration, management, operation, and use of the Property, and to amend such rules and regulations from time to time;
- (f) To provide for the maintenance, repair, and replacement of the common areas of the Property owned by the Association and payment therefor, and to approve payment vouchers or to delegate such approval to designated Officers or a managing agent;
- (g) To provide for the hiring and removal of employees and other personnel, including accountants and attorneys, and to engage or contract for the services of others, and to make purchases for the maintenance, repair, replacement, administration,

management, and operation of the Property, and to delegate any such powers to a managing agent

- (h) To appoint committees of the Board and to delegate to such committees the Board's authority to carry out certain duties of the Board;
- (i) To determine the fiscal year of the Association and to change said fiscal year from time to time as the Board deems advisable, but only as allowed by law;
- (j) To estimate the amount of the annual budget, and to provide the manner of assessing and collecting from Owners their respective shares of such estimated expenses, as provided in the Covenants;
- (k) Unless otherwise provided herein or in the Covenants, to comply with the instructions of the majority of the Owners, as expressed in a resolution duly adopted at any annual or special meeting of Owners;
- (l) To resolve or mediate disputes, conflicts, or problems between or among Owners regarding issues related to the Property;
- (m) To interpret and enforce these Bylaws, the Covenants, the ARC Guidelines, and any other rules and regulations of the Association ; and
- (n) To exercise all other powers and duties of a board of administration as referred to in the laws of the State of Tennessee and all powers and duties of the Board of Directors referred to in the Covenants or these Bylaws.

Notwithstanding any of the foregoing, before the Board may approve any new project that would require spending more than one-third of the Association dues assessed in the prior year, such action must be approved by a vote of the Board, with at least three (3) Directors in support, and an affirmative vote of at least Fifty Five Percent (55%) of responding Owners by written ballot shall be required.

Section 13. Non-Delegation. These Bylaws may not be considered to grant to the Board, the Association, or to any Officers any powers or duties which, by law, have been delegated to the Owners.

ARTICLE IV

Financial and Recordkeeping Matters

Section 1. Annual Budget. The Board shall cause to be prepared an estimated annual budget for each fiscal year of the Association. This budget shall include a reserve for contingencies for the next fiscal year and a reserve for expected future capital expenditures in reasonable amounts as determined by the Board. The estimated annual budget for each fiscal year shall be available upon a written request from any Owner in good standing with the Association. If at any time the Board determines it is necessary to withdraw funds from the capital funds on deposit for other than capital expenditures the membership shall be notified as to the amount and purpose of such withdrawal.

Section 2. Assessments. All assessments are due and payable as provided in the Covenants.

Section 3. Association Records. The Board shall cause to be kept detailed and accurate records of receipts and expenditures. Payment vouchers may be approved in such manner as the Board may determine. Said records and vouchers shall be available for examination by any Owner in good standing with the Association upon written request by such Owner at a time and place to be determined on a case-by-case basis. An appropriate fee for the reasonable costs of production/duplication may be assessed for requested copies of records at the Board's discretion.

Section 4. Individual Statements of Account. The Board shall, upon receipt of ten (10) days' written notice to it and upon payment of a reasonable fee, furnish to any Owner a statement of account setting forth the amount of any unpaid assessments or other charges due and owing from such Owner.

Section 5. Discharge of Liens. The Board may cause the Association to discharge any mechanic's lien or other encumbrance that may constitute a lien against the common areas of the Property, rather than a lien against only a particular Owner's Lot.

Section 6. Holding Funds. All funds collected on behalf of the Association shall be held and expended for the purposes designated herein and, in the Covenants, and shall be deemed to be held for the benefit, use, and account of all Owners.

Section 7. Association Records. The Association shall keep at all times a copy of the following records at a location to be determined by the Board:

- (a) Its Charter or Restated Charter and all amendments thereto;
- (b) Its Covenants and all amendments thereto;
- (c) These Bylaws and all amendments thereto;
- (d) Resolutions adopted by the Board relating to the characteristics, qualifications, rights, limitations, and obligations of Owners or any class or category of Owners;
- (e) The minutes of all Board meetings and a record of all actions taken by the Board without a meeting;
- (f) All written correspondence, regardless of the media used, between and among Board members shall be kept as determined by the Board at the time of the communication.
- (g) The minutes of all meetings of Owners and the records of all actions taken by Owners without a meeting for the past three years;
- (h) All written communications to Owners generally within the past three years, including the past three years' annual financial statements;
- (i) A list of the names and business or home addresses of its current Officers;
- (j) The most recent annual report delivered to the Tennessee Secretary of State; and
- (k) All appropriate accounting records.

Section 8. Annual Financial Statements. The Association shall prepare annual financial statements that include a statement of financial position, statement of activities, and statement of cash flows as of the end of the fiscal year, and such other information

necessary to comply with the requirements of the applicable provisions of the Tennessee Nonprofit Corporation Act. The Board shall assure that a certified audit of this Annual Financial Statement is completed each year.

ARTICLE V

Contractual Powers

Section 1. Effect of Decision Involving an Interested Officer. No contract or other transaction between the Association and one or more of its Officers or between the Association and any corporation, firm, or association in which one or more of the Officers are directors, or are financially interested, is void or voidable because such Officer(s) are present at the meeting of the Board or a committee thereof which authorizes or approves the contract or transaction or because his or their votes are counted, if the circumstances specified in either of the following subparagraphs exists:

- (a) The fact of the common directorship or financial interest is disclosed or known to the Board or committee and noted in the minutes, and the Board or committee authorizes, approves, or ratifies the contract or transaction in good faith by a vote sufficient for the purpose without counting the vote or votes of such Officer(s); or
- (b) The contract or transaction is just and reasonable as to the Association when it is authorized, approved, or ratified.

Section 2. Quorum When an Interested Officer is Present. Common or interested Officers may be counted in determining the presence of a quorum at a meeting of the Board or a committee thereof which authorizes, approves, or ratifies a contract or transaction.

ARTICLE VI

Amendments

These Bylaws may be amended from time to time by action of the Board, unless specifically prohibited by the Covenants or these Bylaws. Before approving any material change to the Bylaws, the Board must notify Owners of the proposed change and provide Owners with the opportunity to see the proposed new Bylaws. If, within 30 days after sending such notification, 10% or more of the Owners request in writing a meeting to discuss the proposed change, the President will call a meeting for open discussion of the subject; otherwise, the changes will become effective at the end of the 30-day notice period. If a meeting is held in accordance with this Section, the Board will reconsider the proposed new Bylaws in light of the discussion at the meeting and take such further action, if any, as the Board deems appropriate.

ARTICLE VII

Deeds of Trust

The Board, whenever requested in writing by a deed of trust beneficiary of a Lot, may report any of the then unpaid assessments, fees, or common charges due from, or any default by, the Owner of the mortgaged Lot.

ARTICLE VIII

Principles of Interpretation

Section 1. Severability. These Bylaws, to the extent possible, shall be construed or reformed to give validity to all of its provisions. Any provision of these Bylaws found to be prohibited by law or unenforceable shall be ineffective to the extent of such prohibition or unenforceability without invalidating any other part hereof.

Section 2. Construction. In interpreting these Bylaws, unless the context otherwise provides or requires, the singular includes the plural, the plural includes the singular, and the use of gender includes both genders.

Section 3. Headings. Headings are included for the purpose of convenient reference, and they do not affect the meaning or interpretation of these Bylaws.

Section 4. Conflict between Documents. In case of any conflict between these Bylaws and the Covenants, the Covenants shall control. In case of any conflict between these Bylaws and the Architectural Guidelines, the Architectural Guidelines shall control.

ARTICLE IX

Miscellaneous Provisions

Section 1. Registration of Mailing Address. Each Owner shall register his current mailing address with the Secretary of the Association, and notices or demands intended to be served upon or given to an Owner will be personally delivered or sent by mail, postage prepaid, addressed in the name of the Owner at such registered mailing address.

Section 2. Notices. Whenever notice is required to be given to Owners, Officers, or the Association, unless otherwise provided by law, the Covenants, or these Bylaws, such notice may be given in person or by telephone, telegraph, mail, email, or private carrier. If such notice is given by mail, it shall be sent postage prepaid by first class United States mail or by registered or certified United States mail, return receipt requested, and addressed to the respective address which appears for each such person on the books of the Association. Written notice sent by email to Owners shall be deemed to have been given when it is transmitted. Any other written notice shall be deemed to have been given at the earliest of the following:

- (a) when received.
- (b) five days after its deposit in the United States mail if sent first class, postage prepaid;
or
- (c) on the date on the return receipt, if sent by registered or certified United States mail, return receipt requested, and the receipt is signed by or on behalf of the addressee.

Section 3. Waiver of Notice. Whenever notice is required to be given under the provisions of any statute, the Covenants, or these Bylaws, a waiver thereof in writing signed by the person entitled to such notice, whether signed before or after the date stated thereon, and delivered to the Secretary of the Association and included in the minutes, shall be deemed equivalent thereto.

Section 4. Negotiable Instruments. All checks, drafts, notes, or other obligations of the Association shall be signed by an authorized Officer or by such other person(s) as may be authorized by the Board.

Section 5. Deposits. The monies of the Association may be deposited in the name of the Association in such bank(s) or financial institution(s) as the Board may designate from time to time and shall be drawn out by check signed by the Officer(s) or person(s) designated with such authority by resolution adopted by the Board.

Section 6. Limitation of Liability and Indemnification. The Association shall indemnify every Board member and Committee member against any and all judgments and expenses, including trial and appellate attorney's fees and costs reasonably incurred by or imposed upon any Board member or Committee member in connection with any action, suit, or other proceeding (including the settlement of any suit or proceeding if approved by the Board) to which he or she may be party by reason of being or having been a Board member or Committee member. Board members and Committee members are not liable for any mistake of judgment, negligent or otherwise, except for their own willful malfeasance, misconduct, or bad faith. Board members and Committee members have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such Board member or Committee member is also an Association Member), and the Association shall indemnify and forever hold each such Board member and Committee member free from and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein is not exclusive of any other rights to which a Board member or Committee member may be entitled.

With respect to claims or liabilities arising out of service as a Board member or a Committee member, the Association shall indemnify and advance expenses to each such present and future Board member or Committee member (and his or her estate, heirs, and personal representatives) to the fullest extent allowed by the laws of the State of Tennessee, as now in effect and as hereafter adopted or amended.

ARTICLE X

Definitions

As used in these Bylaws, the following terms have the meanings set forth below:

- a) "ARC" means the Lone Mountain Shores Architectural Review Committee;
- b) "Association" means the Lone Mountain Shores Owners Association, Inc., a non-profit corporation;
- c) "Board" means the Board of Directors of Lone Mountain Shores Owners Association, Inc.;
- d) "Covenants" means the Declaration of Covenants, Conditions, Restrictions, and Easements for Lone Mountain Shores, as amended;
- e) "LMS" means the planned community of Lone Mountain Shores created by the Covenants;
- f) "LMS Governing Documents" means (i) these Bylaws; (ii) the Declaration of Covenants Conditions, Restrictions, and Easements for Lone Mountain Shores; and (iii) the Architectural Guidelines, all as they may be amended from time to time;
- g) "LMSOA" means the Lone Mountain Shores Owners Association, Inc., a non-profit corporation;

- h) **"Lot"** means a designated parcel of land within LMS, whether developed with improvements thereon or undeveloped;
- i) **"Majority of the Owners"** means the holders of more than fifty percent (50%) of the voting rights of Owners;
- j) **"Member"** means an Owner or Owners, as the case may be, as stated on the deed of record in the Claiborne County Register of Deed's Office. If an Owner is a land title holding trust under the terms of which all powers of management, operation, and control of the Owner's Lot remain vested in the trust beneficiary, then the Member shall be that beneficiary;
- k) **"Officer"** means a member of the Board;
- l) **"Owner"** means the record owner, whether one or more persons or entities, of fee simple title to any lot in Lone Mountain Shores, but does not mean any person or entity who holds its interest merely as security for the performance of a debt or other obligation, until such person or entity has acquired fee simple title pursuant to foreclosure or other proceeding; and
- m) **"Property"** means the Lone Mountain Shores subdivision, consisting of the aggregate of the common areas owned by the Association and all Lots.

By signing below the duly elected representative(s) of Lone Mountain Shores Owners Association, Inc. affirm that the foregoing Bylaws were duly adopted in accordance with the Bylaws of Lone Mountain Shores Owners Association, Inc., Revision 2007, in that the Material Changes to this document were approved by unanimous vote of the Board and the affirmative vote of fifty- five percent (55%) of the Owners voting by absentee ballot.

IN WITNESS WHEREOF, the said Lone Mountain Shores Owners Association, Inc.
hereinbefore known as Declarant, has hereunto caused these presents to be executed on this 25th day of
September, 2020.

LONE MOUNTAIN SHORES OWNERS
ASSOCIATION, INC.

BY:

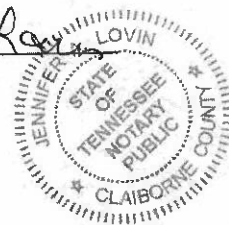
[Signature]
Linda Ann Ellis

STATE OF TENNESSEE:
COUNTY OF CLAIBORNE:

Personally appeared before me, the undersigned authority, a Notary Public in and for said County
and State, as aforesaid, *Linda Ann Ellis* and *Mark Richard Schmitzer*
wish whom I am personally acquainted, who proved to me by satisfactory evidence of identity and who,
upon oath, acknowledge himself/herself to be the *Secretary* and *President* for
Lone Mountain Shores Owners Association, Inc., the within named bargainer, and that as such, he/she has
been authorized to execute for foregoing instrument on behalf of said corporation for the purposes therein
contained, by signing the name of the corporation by himself/herself as such *Secretary*
and *President*.

WITNESS my hand and official seal at office this *25th* day of *September*, 2020.

Jennifer A. Lovin



By signing below the duly elected representative(s) of Lone Mountain Shores Owners Association, Inc., affirm that the Material Changes to this document were approved by unanimous vote of the Board and affirmative vote of the Owners per Article VI of the By-Laws.

LONE MOUNTAIN SHORES OWNERS ASSOCIATION

BY: Linda Ann Ellis
Secretary

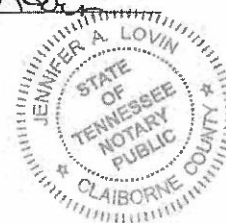
STATE OF TENNESSEE:

COUNTY OF CLAIBORNE:

Personally appeared before me, the undersigned authority, a Notary Public in and for said County and State, as aforesaid, Linda Ann Ellis with whom I am personally acquainted, who proved to me by satisfactory evidence of identity and who, upon oath, acknowledge himself/herself to be the Secretary for Lone Mountain Shores Owners Association, Inc., the within named bargainer, and that as such, he/she has been authorized to execute for foregoing instrument on behalf of said corporation for the purposes therein contained, by signing the name of the corporation by himself/herself as such Secretary and President.

WITNESS my hand and official seal at office this 25th day of September 2020.

Jennifer A. Lovin





LEWIS THOMASON

LEWIS THOMASON, P.C.
One Centre Square, Fifth Floor
620 Market Street
Post Office Box 2425
Knoxville, TN 37901
T: (865) 546-4646 F: (865) 523-6529

Preston A. Hawkins, Esq.
DL: (865) 541-5223
phawkins@lewisthomason.com

August 8, 2022

Via United States Mail and E-mail

Henry and Janice Bennafeld
4009 W. Fielder Street
Tampa, FL 33611
hbennafi@tampabay.rr.com

RE: CEASE & DESIST

Dear Mr. and Mrs. Bennafeld:

Our firm represents the Lone Mountain Shores Owners Association, Inc. ("the Association") as requested by the Association's Board of Directors ("the Board"). It has come to the attention of the Board that you have used your property, located at 207 Cliffside Lane, as a short-term rental property. The Amended and Restated Declaration of Covenants, Restrictions, and Easements for Lone Mountain Shores ("the Covenants") specifically prohibits the short-term rental use of property within Lone Mountain Shores. See Sections 2.14, 6.04, and 6.07 of the Covenants (available online at www.lmsoa.org).

Section 10.01 of the Covenants states that all violations are deemed to be a nuisance for which the Association retains all public and private remedies allowed by law or equity, including injunctive relief. Section 10.02 of the Covenants states that each Owner shall comply with the provisions of the LMS Governing Documents, including the Covenants. Pursuant to Section 10.03 of the Covenants, this letter is intended to provide you with reasonable notice of the violation and an opportunity to request a hearing before the Board prior to the commencement of any legal proceeding to enforce the Covenants.

If you wish to discuss this issue with the Board, a Special Meeting will commence on **September 14, 2022, at 10:00AM**, 171 Bluff View Road, New Tazewell, TN 37825. However, any continued action on your part to use your property as a short-term rental must immediately cease and desist. Otherwise, the Board will authorize our firm to pursue legal claims against you and move to enforce the Covenants.

Best regards,

Preston A. Hawkins

Preston A. Hawkins





LEWIS THOMASON

LEWIS THOMASON, P.C.
One Centre Square, Fifth Floor
620 Market Street
Post Office Box 2425
Knoxville, TN 37901
T: (865) 546-4646 F: (865) 523-6529

Preston A. Hawkins, Esq.
DL: (865) 541-5223
phawkins@lewislthomason.com

August 8, 2022

Via United States Mail and E-mail

Branden and Aimce Frantz
625 Grand Wood Court
Springboro, OH 45066
aimcefrantz@sbeglobal.net

RE: CEASE & DESIST

Dear Mr. and Mrs. Frantz:

Our firm represents the Lone Mountain Shores Owners Association, Inc. ("the Association") as requested by the Association's Board of Directors ("the Board"). It has come to the attention of the Board that you have used your property, located at 114 Shoreside Road, as a short-term rental property. The Amended and Restated Declaration of Covenants, Restrictions, and Easements for Lone Mountain Shores ("the Covenants") specifically prohibits the short-term rental use of property within Lone Mountain Shores. See Sections 2.14, 6.04, and 6.07 of the Covenants (available online at www.lmsoa.org).

Section 10.01 of the Covenants states that all violations are deemed to be a nuisance for which the Association retains all public and private remedies allowed by law or equity, including injunctive relief. Section 10.02 of the Covenants states that each Owner shall comply with the provisions of the LMS Governing Documents, including the Covenants. Pursuant to Section 10.03 of the Covenants, this letter is intended to provide you with reasonable notice of the violation and an opportunity to request a hearing before the Board prior to the commencement of any legal proceeding to enforce the Covenants.

If you wish to discuss this issue with the Board, a Special Meeting will commence on **September 14, 2022, at 10:00AM**, 171 Bluff View Road, New Tazewell, TN 37825. However, any continued action on your part to use your property as a short-term rental must immediately cease and desist. Otherwise, the Board will authorize our firm to pursue legal claims against you and move to enforce the Covenants.

Best regards,

Preston A. Hawkins

Preston A. Hawkins



LEWIS THOMASON

LEWIS THOMASON, P.C.
One Centre Square, Fifth Floor
620 Market Street
Post Office Box 2425
Knoxville, TN 37901
T: (865) 546-4646 F: (865) 523-6529

Preston A. Hawkins, Esq.
DL: (865) 541-5223
phawkins@lewisthomason.com

August 8, 2022

Via United States Mail and E-mail

James and Denise Haws
1755 Mountain Shores Road
New Tazewell, TN 37825
jhaws@aesi-usa.com

RE: CEASE & DESIST

Dear Mr. and Mrs. Haws:

Our firm represents the Lone Mountain Shores Owners Association, Inc. ("the Association") as requested by the Association's Board of Directors ("the Board"). It has come to the attention of the Board that you have used your property, located at 1755 Mountain Shores Road, as a short-term rental property. The Amended and Restated Declaration of Covenants, Restrictions, and Easements for Lone Mountain Shores ("the Covenants") specifically prohibits the short-term rental use of property within Lone Mountain Shores. See Sections 2.14, 6.04, and 6.07 of the Covenants (available online at www.lmsoa.org).

Section 10.01 of the Covenants states that all violations are deemed to be a nuisance for which the Association retains all public and private remedies allowed by law or equity, including injunctive relief. Section 10.02 of the Covenants states that each Owner shall comply with the provisions of the LMS Governing Documents, including the Covenants. Pursuant to Section 10.03 of the Covenants, this letter is intended to provide you with reasonable notice of the violation and an opportunity to request a hearing before the Board prior to the commencement of any legal proceeding to enforce the Covenants.

If you wish to discuss this issue with the Board, a Special Meeting will commence on **September 14, 2022, at 10:00AM**, 171 Bluff View Road, New Tazewell, TN 37825. However, any continued action on your part to use your property as a short-term rental must immediately cease and desist. Otherwise, the Board will authorize our firm to pursue legal claims against you and move to enforce the Covenants.

Best regards,

Preston A. Hawkins

Preston A. Hawkins

STATE OF TENNESSEE

§
§
§
§

COUNTY OF CLAIBORNE

AMENDED AND RESTATED
DECLARATION OF COVENANTS,
CONDITIONS, RESTRICTIONS, AND
EASEMENTS FOR LONE MOUNTAIN
SHORES



THIS AMENDED AND RESTATED DECLARATION OF COVENANTS, RESTRICTIONS, AND EASEMENTS FOR LONE MOUNTAIN SHORES is made this 8th day of December, 2021 by LONE MOUNTAIN SHORES OWNERS ASSOCIATION, INC., a Tennessee nonprofit corporation (hereinafter referred to as the "Association").

WHEREAS, "Lone Mountain Shores" (hereinafter referred to as the "Property" or "Lone Mountain Shores"), which is more fully described in Exhibits attached hereto and incorporated herein by this reference, has been developed through phased additions as a residential subdivision in County of Claiborne, State of Tennessee containing approximately 2303.078 acres, more or less, and

WHEREAS, prior Declarations of record have imposed upon the Property mutually beneficial restrictions under a general plan of improvement for the benefit of all owners of property in Lone Mountain Shores to provide a flexible and reasonable procedure for the development and the maintenance of use and architectural guidelines for the Property;

NOW THEREFORE, Lone Mountain Shores Owners Association as "Declarant", having been assigned all rights of Tennessee Lone Mountain Shores Corp., the developer of "Lone Mountain Shores", hereby declares and restates that the Property which is described in EXHIBIT "A" and any property previously made subject to these Covenants as evidenced by duly filed and recorded Amendments to original Declarations of Covenants, Restrictions and Easements for Lone Mountain Shores, shall be held, transferred, sold, conveyed, leased, occupied and used subject to the following easements, restrictions, covenants, charges, liens and conditions which are for the purpose of protecting the value and desirability of the Property, and which shall touch and concern and run with title to the Property. The Covenants and all provisions hereof shall be binding on all parties having any right, title or interest in the property or any portion thereof, and their respective heirs, successors, successors; in title and assigns, and shall inure to the benefit of each owners thereof.

ARTICLE I IMPOSITION OF COVENANTS AND STATEMENT OF PURPOSE

Section 1.01 **Imposition of Covenants.** Declarant hereby amends and restates the following covenants, conditions, restrictions and easements (collectively referred to as the "Covenants") upon the Property which shall be held, sold and conveyed subject to the Covenants. The Covenants shall run with the land and shall be binding upon all persons or entities having any right title or interest in all or any part of the Property, and the covenants shall inure to the benefit of each owners of the Property.

Section 1.02 **Statement of Purpose.** The Covenants are imposed for the benefit of all owners of the parcels of land located with the Property. These Covenants create specific

such repair or restoration is not commenced within one hundred twenty (120) days from the date of such damage or destruction, or if repair and reconstruction is commenced but then abandoned, then the Association, after providing written notice to the Owner of his/her failure to repair the damage, may impose a fine of ONE HUNDRED DOLLARS (\$100.00) per day on the Owner of the Lot, or such lesser amount as the Board may, in its discretion, determine, until repair and reconstruction is commenced, unless the Owner proves to the satisfaction of the Association that such failure is due to circumstances beyond the Owner's control. Such a fine shall be a Default Assessment and subject to a lien against the Lot as provided in Section 4.07 above.

Section 9.02 **Emergency Road Repair.** In cases of emergency road damage or blockage, including but not limited to, blockages caused by natural disaster, manmade means, whether intentional or unintentional, or any other condition affecting ingress and egress from the Property, Lone Mountain Shores Owners Association, its agents and assigns, shall have the authority to grant, in its sole discretion, temporary licenses of ingress and egress across the Property to contractors or other workmen for purposes of making said roads passable for ordinary, consumer-grade passenger vehicles. Such Temporary Licenses as granted herein shall expire after fifteen (15) days unless extended for additional fifteen (15) day periods by Lone Mountain Shores Owners Association, its agents, and assigns.

ARTICLE X ENFORCEMENT OF LMS GOVERNING DOCUMENTS

Section 10.01 **Violations Deemed a Nuisance.** Every violation of any of the LMS Governing Documents is deemed to be a nuisance and is subject to all the remedies provided for the abatement of the violation. In addition, all public and private remedies allowed by law or in equity against anyone in violation of the LMS Governing Documents shall be available to the Association.

Section 10.02 **Compliance.** Each Owner or other occupant of any Lot shall comply with the provisions of the LMS Governing Documents as the same may be amended from time to time.

Section 10.03 **Failure to Comply.** Failure to comply with the LMS Governing Documents shall be grounds for an action by the Association to recover damages or for injunctive relief to cause any such violation to be remedied, or both. Reasonable notice and an opportunity for a hearing before the Board shall be given to the delinquent party prior to commencing any legal proceedings.

Section 10.04 **Remedies.** In addition to the remedies set forth above, any violation of the LMS Governing Documents give the Board or an Officer, on behalf of the Association, the right to enter upon the offending Owner's Lot and take appropriate

peaceful action to abate, remove, modify, or replace at the expense of the offending Owner, any structure, thing, or condition that may exist on the Owner's Lot in violation of the LMS Governing Documents. If the violation affects any part of the Common Area, the corrective action shall be at the expense of the Owner or other person responsible for the offending condition.

Section 10.05 **Non-Exclusive Remedies.** All of the remedies set forth herein are cumulative and non-exclusive.

Section 10.06 **No Liability.** No member of the Board, Officer, or member of the ARC will be liable to an Owner for the failure to enforce any provision of the LMS Governing Documents.

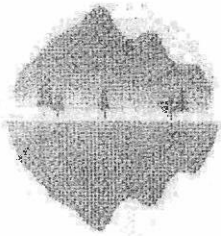
Section 10.07 **No Waiver.** The failure of the Board, the ARC, an Officer, or any aggrieved Owner to enforce any provision of the LMS Governing Documents is not to be deemed a waiver of the right to do so for any subsequent violations or of the right to enforce any other part of the LMS Governing Documents in the future. No waiver will be effective unless it is in writing and signed by the President or Vice President on behalf of the Association, or by the Chairmen of the ARC on behalf of the ARC.

ARTICLE XI DURATION OF COVENANTS AND AMENDMENT

Section 11.01 **Term.** These Covenants shall run with and bind each Lot and the Property, and shall inure to the benefit of and be enforceable by the Association or an Owner, their respective legal representatives, heirs, successors, and assigns for a term of twenty (20) years from the date these Covenants were recorded, after which time the Covenants shall be automatically extended for successive periods of ten (10) years, unless an instrument in writing, signed by a majority of the then owners, has been recorded within the year preceding the beginning of a particular ten (10) year extension, agreeing to terminate the Covenants.

Section 11.02 **Amendment.** These Covenants may be materially amended only by a unanimous vote of the board and the affirmative vote of fifty-five percent (55%) of the Owners voting by absentee ballot. Any approved amendment must be recorded in the Office of the Register of Deeds for Claiborne County, Tennessee.

Section 11.03 **Effective on Recording.** Any amendment of these Covenants will be effective immediately upon recording in the Office of the Register of Deeds for Claiborne County, Tennessee, together with a duly authenticated Certificate of the Secretary of the Association stating that the required percentage of Owner consents was obtained and are on file in the office of the Association.



Lone Mountain Shores Owners Association

"A Covenant Protected Community"

2021 LMSOA COVENANT CHANGES APPROVED BY OWNER VOTE OF LMSOA COVENANT SECTION 6.32 CAMPING

CURRENT COVENANT LANGUAGE

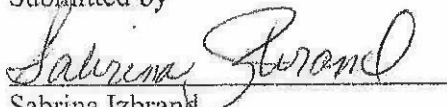
Section 6.32 Camping. Camping is not permitted on common areas including, but not limited to, Pebble Creek Marina (boat dock #1), Stillwater Marina (boat dock #2) and the Community Center.

NEW COVENANT LANGUAGE

Section 6.32 Camping. Camping is not permitted on common areas including, but not limited to, Pebble Creek Marina (boat dock #1), Stillwater Marina (boat dock #2) and the Community Center.

Camping or erecting temporary structures by owners on individual lots is limited to three consecutive weeks; with a maximum of nine (9) weeks per calendar year, except during periods of construction. Removal of all equipment and gear is required at the end of each event. Camping and temporary structures permitted during times of construction will be on a case-by-case basis as mutually agreed upon by the owner and the ARC Committee prior to use.

Submitted by



Sabrina Izbrand

Secretary, Lone Mountain Shores Homeowners Association

SWORN TO AND SUBSCRIBED BEFORE ME on December 2th, 2021


Notary Public

BK/PG: 1593/353-353

21010959

1 PGS:AL-AMENDED RESTRICTIONS	
CHARLOT BATCH: 73749 12/08/2021 12:53 PM	
VALUE	0.00
MORTGAGE TAX	0.00
TRANSFER TAX	0.00
RECORDING FEE	10.00
ARCHIVE FEE	0.00
DP FEE	2.00
REGISTER'S FEE	0.00
TOTAL AMOUNT	12.00

STATE OF TENNESSEE, CLAIORNE COUNTY
KIMBERLY H. REECE

