



CHRISTENE M. ERTL
Shareholder
**Board Certified Condominium
and Planned Development Attorney**
780 N. Ponce de Leon Blvd.
St. Augustine, Florida 32084
T: (904) 356-2600
E: cme@fishertousey.com
Paralegal: Cindy B. Marsh
E: cbm@fishertousey.com

December 16, 2025

Sent by Email and U.S. Mail
(Rozell.Mckay@Commerce.fl.gov)

Rozell McKay
Florida Department of Commerce
Attention Division of Community Development
107 East Madison Street, MSC 160
Tallahassee, Florida 32399-4120

Re: Three Rivers Estates Property Owners,
Inc. Invalid Revitalization Attempts

Dear Mr. McKay:

This firm has the pleasure of representing several concerned owners of the Three Rivers Estates community. Recently, these owners requested our assistance regarding recent invalid attempts to revitalize covenants and restrictions for the community best identified as Three Rivers Estates in both Columbia and Suwannee Counties. The revitalization efforts were sent on the letterhead of attorney Peter Focks at McCarty Focks, P.C., and we sent a similar letter to Mr. Focks regarding the identified issues.

The reasons identified in this letter do not detail every error in the revitalization packages but are those we believe to be most important and otherwise act to irrevocably invalidate the current and any future attempt at revitalization. Since we are not aware if, or when, Mr. Focks or the persons leading this effort may send the revitalization package(s) to your office, this letter is being sent to place you on notice of, and to explain, several reasons why the current attempts to revitalize are invalid, and of which we believe your office should be made aware.

Revitalization efforts in Columbia County. There are several legal deficiencies regarding the revitalization attempt underway in Columbia County, Florida relating to the Three Rivers Estates community. The original covenants and restrictions affecting the properties in the Three Rivers Estates community in Columbia County were recorded on May 2, 1967 (“1967 Covenants”), at Book 128, Page 90 in the Official Public Records of Columbia County. Only the first page of this document is available in the public records. Our clients have gone directly to the courthouse to review the microfiche files and only the first page has been made available. The copy included in the package is not only incomplete but also illegible and not retyped.

As you know, pursuant to Florida’s Marketable Record Title Act (Chapter 712 of the Florida Statutes – “MRTA”) the 1967 Covenants expired on or about May 2, 1997, unless they were preserved from extinguishment pursuant to the process described in MRTA. To our knowledge and based on our review of the public records of Columbia County, this was never done.

Pursuant to the terms of the 1967 Covenants, the approval of the “Seller ... and ... a majority of the landowners” are required to amend the 1967 Covenants. Based on our review of the public records of Columbia County, this was never done. More specifically, the 1967 Covenants were never amended to identify a corporate entity empowered to enforce or amend the 1967 Covenants. As such, only a majority of the owners governed by the 1967 Covenants were ever authorized to amend the 1967 Covenants.

In 1980, the Three Rivers Estates Property Owners, Inc. (“TREPO”) was formed in the State of Florida as a corporation not for profit. At this time, homeowners associations did not exist in the State of Florida. In fact, as you may know, homeowners associations were not created under Florida law until 1992, with the enactment and addition of a single section to Chapter 617, Section 617.301. Chapter 720, the Homeowners Association Act, did not become a part of Florida’s statutes until 2004.

TREPO was established as a Florida not for profit corporation organized to “own, operate and maintain certain parks, picnic areas, with all improvements thereunto appertaining, located on Tract 1 and Tract 2 of the Three Rivers Estates Development located in Columbia and Suwannee Counties along the southern end of the Ichetucknee River and at the immediate north and south areas of the intersection of the north of the Sante Fe River at the points north and south of the intersection of the Ichetucknee River with said Sante Fe River.” The persons available to be members of this corporation were identified to be “property owners or their spouses in Tract 1 and 2 of the Three Rivers Estates located in Columbia and Suwannee Counties, Florida at that certain development located south of U.S. Highway No. 27 at the intersection of the Ichetucknee and Sante Fe Rivers.” TREPO is a voluntary association as is further detailed below. Owners of property within Three Rivers Estates located in Columbia and Suwannee Counties are not required to be members of TREPO. As a result, TREPO is not a mandatory membership corporation or “association.” Furthermore, as mentioned above, the 1967 Covenants were never amended to empower TREPO with the authority to enforce the 1967 Covenants nor were they amended to authorize TREPO to amend the 1967 Covenants.

MRTA defines a property owners association as “a homeowners’ association as defined in s. 720.301, a corporation or other entity responsible for the operation of property in which the voting membership is made up of the owners of the property or their agents, or a combination thereof, **and in which membership is a mandatory condition of property ownership**, or an association of parcel owners which is authorized to enforce a community covenant or restriction that is imposed on the parcels.” (emphasis added).

Ch.720 of the Florida Statutes defines “Homeowners’ association’ or ‘association’ [as] a Florida corporation responsible for the operation of a community or a mobile home subdivision in which the voting membership is made up of parcel owners or their agents, or a combination thereof, **and in which membership is a mandatory condition of parcel ownership**, and which is authorized to impose assessments that, if unpaid, may become a lien on the parcel. ...”

Since membership in TREPO is not a mandatory condition of property ownership and since TREPO was never authorized to enforce or amend the 1967 Covenants, TREPO does not meet the definition of a property owners association as defined in MRTA nor a homeowners association or association under Ch. 720. Accordingly, TREPO cannot use the process outlined in MRTA for property owners associations to revitalize covenants **and** TREPO Articles of Incorporation and Bylaws should not be a part of the revitalization package. The inclusion of the TREPO Articles and Bylaws in the revitalization package invalidates the revitalization package. In light of the above, the owners of

properties as described in the 1967 Covenants remain the **only** parties authorized and empowered to amend, enforce or revitalize the 1967 Covenants.

Notwithstanding the lack of authority to amend or enforce the 1967 Covenants, in 1990, the Board of Directors of TREPO attempted to approve and did record “new” restrictions (“1990 Covenants”) alleged to provide additional covenants and restrictions to Units 1, 1A, 2 – 24 of Three Rivers Estates, exclusive of Lot 1AAA, Unit 11. These restrictions were not approved by either the “Seller” nor “a majority of landowners” as required by the 1967 Covenants.

Since a majority of landowners did not approve the 1990 Covenants and since TREPO was never identified in the 1967 Covenants as being authorized to amend or enforce the same, there was no legal mechanism for the Board of TREPO to amend and impose the 1990 Covenants on the owners of property within the Three Rivers Estates community. Accordingly, the 1990 Covenants are illegal and invalid, and never amended the 1967 Covenants. The 1990 Covenants are not legally binding on the properties within Three Rivers Estates located in Columbia nor Suwannee County, Florida and should not have been /cannot be included in any revitalization effort of the 1967 Covenants.

With the amendments to MRTA in 2018 “parcel owners of a community not subject to a homeowners association may use the procedures set forth in ss. 720.403-720.407 to revive the covenants or restrictions that have lapsed under the terms of this chapter.” Pursuant to MRTA, the “revived declaration may not contain covenants that are more restrictive on the parcel owners than the covenants contained in the previous declaration.” Pursuant to Section 720.405(5) “a copy of the complete text of the proposed revived declaration of covenants.... shall be presented to all of the affected parcel owners by mail or hand delivery” and pursuant to Section 720.405(6) “a majority of affected parcel owners must agree in writing to the revived declaration of covenants.” The current revitalization efforts did not meet any of these requirements.

To summarize the issues detailed above: 1) the 1967 Covenants included in the recent revitalization efforts are not complete and are illegible; 2) in addition to the 1990 Covenants being invalid and unenforceable, the inclusion of the 1990 Covenants invalidates the current revitalization efforts because their inclusion in the revitalization package acts to add more restrictive covenants; and 3) since membership in TREPO is not a mandatory condition of property ownership and since TREPO cannot amend or enforce the 1967 Covenants, TREPO cannot be involved in the revitalization and the TREPO Articles of Incorporation and Bylaws cannot be included in the revitalization packages. Additional deficiencies include the fact that the revitalization packages were sent to less than all “affected owners” governed by the 1967 Covenants. In fact, the packages were mailed to only a small handful of the approximately thousands of affected parcel owners.

Suwannee County. Similar to Columbia County, there are several legal deficiencies and concerns regarding the revitalization attempt underway in Suwannee County, Florida. Most important, there is no evidence that any restrictions were ever lawfully imposed on the Three Rivers Estates community existing in Suwannee County. Accordingly, there can be no revitalization of covenants that were never lawfully imposed. Notwithstanding the fact that no covenants and restrictions were ever lawfully imposed, the revitalization package sent out by Mr. Focks’ office included a copy of the first page of covenants that were never recorded in Suwannee County. A search of the Suwannee County public records of the book and page on the very faded copy of the alleged covenants reveals a deed having nothing to do with the Three Rivers Estates properties, not the covenants included in the package. In addition, the copy is so faded that it is illegible and the package does not include any retype of the text.

Also, similar to the efforts in Columbia County, the revitalization packages included the TREPO Articles of Incorporation and Bylaws, which, for the reasons set forth above, invalidate the revitalization efforts since membership in TREPO is not a mandatory condition of property ownership and TREPO cannot amend or enforce the 1967 Covenants. Finally, the packages were sent to less than all affected parcel owners identified in the graphic description of the property attached to the revitalization packages, having been sent only to a small handful of owners. This lack of inclusion of all affected parcel owners further invalidates the already deficient and invalid packages.

For the above reasons we believe the Department of Commerce, Division of Community Development, must reject the revitalization efforts currently underway for the Three Rivers Estates community in Columbia and Suwannee Counties if and when submitted, as well as any future efforts that contain the same issues. We hope this letter provides some helpful information and will be saved for reference if any revitalization packages are ever submitted for approval by your office. If you have any questions regarding this letter, please do not hesitate to contact me. Thank you.

Sincerely,

A handwritten signature in cursive script, appearing to read "Christene M. Ertl".

Christene M. Ertl

CME/cbm
cc: Client (by E-mail)