



**Common Interest Community Board**

**VIRGINIA PROPERTY OWNERS' ASSOCIATION DISCLOSURE PACKET NOTICE**

The lot being purchased is in a development subject to the Virginia Property Owners' Association Act. The contract to purchase a lot shall disclose that the lot is located in a property owners' association. The purchaser may have the right to cancel the contract after receiving the disclosure packet and the purchaser may request an update of the disclosure packet pursuant to § 55.509.4 of the Code of Virginia.

Living in a common interest community carries with it certain rights, responsibilities and benefits. Benefits include the right to use common areas, which may include swimming pools, parks, playgrounds and other recreational facilities. In order to finance the operation of the common interest community association, each owner is responsible for and obligated to pay periodic assessments, and if necessary, special assessments to ensure that the financial requirements are met.

Use of common areas, financial obligations of lot owners and other rights, responsibilities and benefits associated with the ownership of a lot in this common interest community are subject to the provisions of governing documents that typically include a declaration, articles of incorporation, bylaws and rules and regulations. These documents are important and should be reviewed carefully prior to purchase.

Some decisions are made by the association board of directors, while other decisions are reserved to a vote of association members. The purchaser is bound by all decisions of the association and the board of directors and the provisions of the governing documents.

Failure to comply with the association governing documents can result in legal action taken against the lot owner. Failure to pay assessments and mandatory fees may result in the association filing a lien and/or lawsuit against the lot owner, foreclosing the lien, and other actions permitted by the governing documents and the Property Owners' Association Act.

Documents and information contained in the disclosure packet describe the basis for living in a common interest community and should be reviewed carefully prior to purchase of the lot.

Enclosure (a)

The Association Disclosure Packet must include the following statements:

- ☐ Association name, and if incorporated, the state of incorporation and the name and address of the registered agent;
- ☐ A statement of any approved expenditures that require an additional assessment during the current year or the immediately succeeding fiscal year;
- ☐ A statement of all assessments and other mandatory fees currently imposed by the association;
- ☐ A statement whether there is any other entity or facility to which the lot owner may be liable for fees or charges;
- ☐ The current reserve study report (or a summary thereof), a statement of the status and amount of any reserve or replacement fund and any portion of the fund allocated by the governing board for a specified project;
- ☐ A copy of the association's current budget (or a summary thereof) and a copy of its statement of income and expenses or financial condition for the last fiscal year available, including a statement of the balance due of any outstanding loans of the association;
- ☐ A statement of the nature and status of any pending suit or unpaid judgment to which the association is a party and that either could or would have a material impact on the association or its members or that relates to the lot being purchased;
- ☐ A statement setting forth the insurance coverage provided for all lot owners by the association, including any fidelity bond maintained by the association, and what additional insurance would normally be secured by each individual lot owner;
- ☐ A statement that any improvement or alteration made to the lot, or uses made of the lot or common area assigned thereto by the prior lot owner, are not in violation of any of the instruments referred to in this disclosure notice;
- ☐ A statement setting forth any restriction, limitation, or prohibition on the right of a lot owner to place a sign on the owner's lot advertising the lot for sale;
- ☐ A statement setting forth any restriction, limitation, or prohibition on the right of a lot owner to display any flag on the owner's lot, including, but not limited to reasonable restrictions as to the size, place and manner of placement or display of such flag and the installation of any flagpole or similar structure necessary to display such flag;
- ☐ A statement setting forth any restriction, limitation, or prohibition on the right of a lot owner to install or use solar energy collection devices on the owner's property;
- ☐ A statement indicating any known project approvals currently in effect by secondary mortgage market agencies;
- ☐ Certification, if applicable, that the association has filed with the Common Interest Community Board the annual report required by §55-516.1 of the Code of Virginia including the filing number assigned by the Common Interest Community Board and the expiration date of the filing; and
- ☐ The association complaint procedure as required by 18 VAC 48-70-60 and pursuant to 18 VAC 48-70-40 and 18 VAC 48-70-50.

The Association Disclosure Packet must include the following attachments, if any:

- ☐ A copy of the current declaration, the association's articles of incorporation and bylaws, and any rules and regulations or architectural guidelines adopted by the association;
- ☐ A copy of notice given to the lot owner by the association of any current or pending rule or architectural violation; and
- ☐ A copy of any approved minutes of the board of directors and association meetings for the six calendar months preceding the request for the disclosure packet.

Enclosure (b)

This form was developed by the Common Interest Community Board in accordance with § 54.1-2350 of the Code of Virginia and is to accompany the association disclosure packet required by § 55-509.5 of the Code of Virginia.

09/17/13



# Disclosure Statement for New Buyers of Property in Mill Creek Landing

June 7, 2021

As required by the **PROPERTY OWNERS' ASSOCIATION ACT, Commonwealth of Virginia, Mill Creek Landing Homeowners' Association Inc., a Virginia Corporation, hereby makes disclosure of the status and standing of the property listed as Lot 5 Section 6, Mill Creek Landing, James City County, Virginia, as of this date.** Registered agent for the Association is David Sherman, 3964 Burnley Drive, Williamsburg, VA 23188. This information is furnished as a good faith effort to comply with the Property Owner's Association Act, as required by that act. The information contained herein is believed to be accurate; however, all statements are subject to verification and correction.

- a. There are no approved capital expenditures that require an additional assessment during the current fiscal year or in the immediately succeeding fiscal year.
- b. Association dues assessments for the above referenced lot have been paid for calendar year 2021. There are no other assessments or mandatory fees imposed by Mill Creek Landing Homeowners' Association (the Association).
- c. Next regular dues payment will be due January 1, 2022, in accordance with the enclosed Assessment Schedule. Late payment fees are in accordance with the Declaration of Covenants and Conditions of the Association (the Covenants).
- d. There is no other entity or facility to which the lot owner may be liable for fees or charges.
- e. A statement of the status and amount of reserve and replacement funds and the allocation of any portion of the fund for specified projects will be found in the enclosed Reserve Study Summary.
- f. A copy of the Association's budget for current fiscal year and a copy of the statement of income and expenses for last fiscal year are enclosed. The Association does not have any outstanding loans.
- g. The Association is not currently involved in any lawsuits. The Association has no unpaid judgments.
- h. The Association has liability insurance coverage limited to \$2,000,000; general aggregate limited to \$4,000,000; medical payments, \$5,000 per person; property damage, \$300,000; and Directors and Officers Liability, \$2,000,000. Lot owner is responsible for providing any homeowner's insurance on dwelling and other structures located on the lot.
- i. The lot listed above and any improvements or alterations to it are not known to be in violation of the Covenants or any of the instruments referred to or included in this disclosure notice.
- j. The rights of members to advertise their property for sale, the manner for doing so, any architectural restrictions, rules, regulations, or other pertinent restrictions are specified in the Covenants.
- k. Section 5 of Article VIII of the Covenants prohibits the display of signs on any lot except one sign of not more than four square feet in area advertising the property for sale or rent by lot owner or a building contractor's sign during the construction and sales period. Please see details in the Covenants.
- l. Solar energy collection devices visible from the street or visible from adjacent lots are prohibited.
- m. The Association has filed the annual report as required by P.L.55-516.1. It was registered with the Department of Professional and Occupational Regulation Commonwealth of Virginia Real Estate Board, under registration number is 0550-002276 valid to 30 November 2015.
- n. There are no restrictions, limitations, or prohibitions in the Covenants on the right of a lot owner to display any flag on the owner's lot. Construction and/or installation of a free-standing flagpole is covered by the Covenants as a structure and is therefore subject to approval by the Association.
- o. The association complaint procedure as required by 18 VAC 48-70-60 and pursuant to 18 VAC 48-70-40 and 18 VAC 48-70-50 is enclosed.

The Mill Creek Landing Homeowners Association is dedicated to the enhancement and protection of our neighborhood for the benefit of all its members. We welcome you into our community and hope that you will become active and involved members of your Association.

Marcia M. Murphy  
Covenants Committee (760-832-3569)  
David Sherman, President

P.O. Box 5784  
Williamsburg, VA 23188





**MILLCREEK LANDING HOMEOWNERS' ASSOCIATION, INC.**  
**SCHEDULE OF OPERATING FUND REVENUES AND EXPENSES**  
**BUDGET AND ACTUAL**  
**PERIOD JANUARY 1, 2021 TO May 13, 2021**

	2021 Budget	2021 YTD Actual
<b>Revenues:</b>		
Regular Assessments	27,000	23,400
Other Income	0	99.38
<b>Total</b>	<u>27,000</u>	<u>23,499</u>
<b>Expenses:</b>		
Mowing and Grounds Maintenance	8,500	2925
Beautification	2,400	456
Irrigation Maintenance	300	150
Administrative Costs (Postage, PO Box	500	
Reserve Replacement	5,500	5500
Improvements and Major Repairs	5,300	
Legal Expenses	1,000	
Insurance	1,300	
Picnic/Community Entertainment	400	
Electricity	750	113
Water and Sewer	750	43
Taxes	300	
<b>Total</b>	<u>27,000</u>	<u>9,187.27</u>

<b>Excess (Deficiency) of Operating Fund Revenues</b>		
<b>Over Operating Fund Expenses</b>	0	14,312 *
	<u>*Plan to add to reserve</u>	

<b>Cash on hand in Bayport Credit Union as of 10/19/20:</b>	
Checking	84,715.33
Savings - Reserve Account	3,751.10
Money Market	91,445.96

**MILL CREEK LANDING HOMEOWNERS' ASSOCIATION, INC.**  
**SCHEDULE OF OPERATING FUND REVENUES AND EXPENSES**  
**Proposed 2021 Budget**

	<b>Proposed 2021 Budget</b>
<b>Revenues:</b>	
Regular Assessments	27,000
Other Income	0
<b>Total</b>	<u>27,000</u>
<b>Expenses:</b>	
Mowing and Grounds Maintenance	8,500
Beautification	2,400
Irrigation Maintenance	300
Administrative Costs (Postage, PO Box, Fees, etc)	500
Reserve Replacement	5,500
Improvements and Major Repairs	5,300
Legal	1,000
Insurance	1,300
Picnic/Community Entertainment	400
Electricity	750
Water and Sewer	750
Taxes	300
<b>Total</b>	<u>27,000</u>

<b>Excess (Deficiency) of Operating Fund Revenues</b>	
<b>Over Operating Fund Expenses</b>	<u>0</u>

<b>Checking</b>	<b>75,903.22</b>
<b>Savings - Reserve Account</b>	<b>18,063.21</b>
<b>Certificate of Deposit - Reserve</b>	<b>91,445.96</b>
<b>Total all bank accounts</b>	<b>185,412.39</b>

Total of all Bank Accounts    \$179,912.39

**Bylaws of the  
Mill Creek Landing Homeowners Association Inc.  
Amended and Restated  
Adopted September 12, 2005**

**Article I**

**Name and Location**

The name of the corporation is Mill Creek Landing Homeowners Association, Inc., a Virginia nonstock corporation, hereinafter referred to as the Association. The corporation's mailing address is P.O. Box 5784, Williamsburg, VA 23188. Meetings of Members and Directors may be held at such places within the State of Virginia as may be designated by the Board of Directors, hereinafter referred to as the Board.

**Article II**

**Definitions**

**Section 1.** "Association" shall mean and refer to Mill Creek Landing Homeowners Association, Inc., its successors and assigns.

**Section 2.** "Declaration" shall mean and refer to the Declaration of Covenants, Conditions, and Restrictions of Mill Creek Landing dated March 15, 1988, made by the John Grier Construction Company, a Virginia corporation, and recorded in the Clerk's Office of the Circuit Court of James City County, Virginia in Deed Book 393; on page 56, amended June 9, 1988 by amendment recorded in the Clerk's Office of the Circuit Court of James City County, Virginia in Deed Book 394, at page 214, and amended May 26, 1989 by amendment recorded in the Clerk's Office of the Circuit Court of James City County, Virginia in Deed Book 441, at page 135.

**Section 3.** "Owner" shall mean and refer to the record owner, whether one or more persons or entities of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

**Section 4.** "Properties" shall mean and refer to that certain real property as described in the Declaration.

**Section 5.** "Common Areas" shall mean all real property, including improvements thereto, owned by the Association for the common use and enjoyment of the Owners, as described in the Declaration.

**Section 6.** "Lot" shall mean and refer to any numbered plot of land shown upon any recorded subdivision map of the Properties, with the exception of the Common Area and any property which constitutes Mill Creek Pond.

**Section 7.** "Property Owners Association Act" shall refer to the Code of Virginia, Section 55-508 to 55-516.1 which applies to the Association.

## Article III

### Membership

**Section 1. Membership.** Every Owner shall be a Member of the Association, hereinafter referred to as Member. Membership shall be appurtenant to, and shall not be separated from, ownership of any Lot. Upon the recordation of a deed to any Lot, the membership of the selling Owner shall cease and the purchasing Owner shall become a Member.

**Section 2. Class of Members.** The Class B membership originally established under the Declaration and the Articles has expired and therefore there is now one class of Member known as "Class A". All Owners of Lots are Class A Members.

**Section 3. Voting Rights.** Each Class A Member shall be entitled to cast one vote for each Lot owned. The Board may suspend the voting rights of any Member during the period when any assessment is past due, but upon payment in full of such assessment the voting rights of such Member shall be automatically restored.

## Article IV

### Meetings of Members

**Section 1. Annual Meetings.** The Association shall hold at least one Annual General Membership Meeting at a time and place to be designated by the Board for the purpose of electing officials and approving the annual budget. It will be customary for the meeting to be held during the first week of October.

**Section 2. Special Meetings.** Special meetings of the Members may be called at any time by the President or by the Board, or upon written request of at least one-fourth (1/4) of the Class A Members.

**Section 3. Notice of Meetings.** Members must be notified in writing, or by electronic mail if so elected by the Member, of the time, date, and location of the Annual General Membership Meeting and, in the case of a special meeting, the purpose of such meeting. Notice must be given at least twenty (20) days in advance of the Annual General Membership Meeting and any special meeting.

**Section 4. Quorums.** (a) For the purpose of the Annual General Membership Meeting and special meetings, except when raising the Association annual assessment more than fifty percent (50%) above the maximum assessment for the previous year or imposing a special assessment, one-third (1/3) of the membership shall constitute a quorum. There are ninety (90) Lots in the Association, so quorum shall be thirty (30) Members, in good standing to vote. If, however, such quorum shall not be present at such meeting, the Members have the power to adjourn the meeting, until a quorum shall be present or represented. A subsequent meeting of the membership can be held no earlier than twenty (20) days from the initial meeting. At such meeting, quorum shall constitute one-third (1/3) of the original number of Members required, which is ten (10) Members.



(b) When the Annual General Membership Meeting or other special meeting requires action to raise the Association annual assessment (dues) above the fifty percent (50%) maximum assessment for the previous year, as allowed by the Declaration, or assess a special assessment, the quorum shall be fifty percent (50%) of the membership, or forty-five (45) Members. If, however, such quorum shall not be present at such meeting, the Members have power to adjourn the meeting, until a quorum shall be present or represented. A subsequent meeting of the membership can be held no earlier than twenty (20) days from the initial meeting. At such meeting, quorum shall constitute one third (1/3) of the original number of Members required, which is fifteen (15) Members.

**Section 5. Proxies.** At all meetings, each Member in good standing may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary on or before the scheduled meeting. Every proxy shall be revocable and shall automatically cease upon notification by the Member.

## **Article V**

### **Nomination and Election of Directors**

**Section 1. Nominations.** Nominations for election of a Director shall be made by a Nominating Committee. The Nominating Committee shall consist of one Director and one or more Members of the Association. Nominations may also be made from the floor at the scheduled Annual General Membership Meeting. Selections by the Nominating Committee shall be published in the written notice of the scheduled Annual General Membership Meeting.

**Section 2. Elections.** Elections will be held at the Annual General Membership Meeting. If two or more persons have been nominated for any one position, the elections will be by written ballot. At such elections, the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The person receiving the highest number of votes shall be elected. Cumulative voting is not allowed. If only one person has been nominated for any position, a simple voice majority vote from the floor will be sufficient to elect such person.

## **Article VI**

### **Directors, Selection and Term of Office**

**Section 1. Number.** The affairs of the Association shall be managed by a board of five (5) Directors. The Directors must be Members in good standing. To maintain independence, Board members cannot be related or living in the same household. The Directors shall comprise the President, Secretary, Treasurer, Chair of the Common Grounds Committee, and Chair of the Covenants Committee.

**Section 2. Term of office.** The Board of Directors is a staggered board, with each Director serving for two years, ending on December 31 following the election of the new Director. The President, Secretary and Chair of the Common Grounds Committee will stand for election in odd years, and the Treasurer and Chair of the Covenants Committee in even years. This allows for experience to be present when new members are elected to the Board.

**Section 3. Resignation and Removal.** Any Director may be removed from office, with or without cause, by the majority vote of the Association Members. A Director may resign at any time by giving written notice to the Board. Such resignation shall take effect on the date of receipt of such notice or any later time specified and, unless otherwise noted, the acceptance of such resignation shall not be necessary to make it effective. In the event of a death, resignation or removal of a Director, his/her successor shall be selected by the remaining members of the Board for the unexpired term of his/her predecessor.

**Section 4. Compensation.** No Director shall receive compensation for any service he/she may render to the Association. However, Directors may be reimbursed for actual expenses incurred in the performance of their duties.

## **Article VII**

### **Meetings of the Board**

**Section 1. Regular Meetings.** The Board shall hold meetings at least quarterly, open to all Members, as such place and hour as determined by the Board. It will be customary to hold such quarterly meetings at the residence of one of the board members at 7:30 p.m. on the first Wednesday of March, June, September and December. Additional meetings will be held to transact all necessary business of the Association

**Section 2. Notice of Meetings.** Members will be notified at least seven (7) days in advance by placing a sign at the front of the Mill Creek Landing neighborhood entrance (corner of Bridgewater Drive and Stanley Drive). Members may also request written notice by mail or electronic mail. Such requests should be made to the Secretary. Notice will be given to the last known address provided by the member.

**Section 3. Quorums.** For the purpose of transacting business at quarterly Board meetings, a quorum shall equal three Directors, which constitutes a majority. Every act or decision made by a majority of the Board present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

**Section 4. Actions Taken Without a Meeting.** The Directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the approval of a majority of the Directors. Any action so approved shall have the same effect as though taken at a meeting of the Board.



## Article VIII

### Powers and Duties of the Board

**Section 1. Powers.** The Board shall have the power to:

- (a) establish, adopt and enforce rules and regulations governing the use of the Common Areas, facilities, the personal conduct of the Members and their guests, and to establish penalties for the infraction thereof;
- (b) suspend the voting rights of a Member during any period in which such Member shall be in default in payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed sixty (60) days for infraction of published rules and regulations;
- (c) exercise for the Association all powers, duties and authority vested in or delegated to the Association and not reserved to the membership by other provisions of these bylaws, the Articles of Incorporation, or the Declaration; and
- (d) declare the office of a member of the Board to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board.

**Section 2. Duties.** It shall be the duty of the Board to:

- (a) cause to be kept a complete record of all of its acts and corporate affairs and to present a statement thereof to the membership at the Annual General Membership Meeting, or at any special meeting when such statement is requested in writing by one fourth (1/4) of the Members entitled to vote;
- (b) supervise all officers and agents of the Association, and to see that their duties are properly performed;
- (c) as outlined in the Declaration:
  - (1) fix the amount of the annual assessment to each Lot at least thirty (30) days in advance of each annual assessment period (the assessment period shall begin on January 1);
  - (2) establish due dates for payment of said assessments;
  - (3) send written notice of each assessment to every Owner subject thereto at least thirty (30) days in advance of each assessment period as established; and
  - (4) notify an Owner, whose assessment is not paid more than sixty (60) days after being levied, of his/her right to a hearing held by the Board; (if an Owner declines his/her right to be heard by the Board, or if after the hearing no substantive proof exists for reason to extend the payment deadline, then the Board shall proceed with legal counsel to attach a lien to the property if assessment payments are not made to bring his/her account current).
- (d) procure and maintain adequate liability and hazard insurance on property owned by the Association;
- (e) cause all Directors having fiscal responsibilities to be bonded, as it may deem appropriate;



(f) cause the Common Areas to be maintained. When there is any unbudgeted project that would require an expenditure in excess of ten (10) percent of the reserve account(s), the board will give thirty (30) days notice to the members and hold a general membership meeting to explain the expenditure.

(g) conduct at least once every five years a study to determine the necessity and amount of reserves required to repair, replace and restore the capital components of the Association and review the results of that study at least annually to determine if reserves are sufficient. The Board is also to make any adjustment it deems necessary to maintain reserves as appropriate.

## **Article IX**

### **Board Members and Their Duties**

**Section 1. Enumeration of Board Members.** The Board members (Directors) of the Association shall comprise a President, Secretary, Treasurer, Chair of the Common Grounds Committee, Chair of the Covenants Committee and such other officers as the Board may from time to time by resolution create.

**Section 2. Special Appointments.** The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

**Section 3. Vacancies.** A vacancy in any Director position or other office may be filled by appointment by the Board. The appointee shall serve the remainder of the term of the individual replaced.

**Section 4. Multiple Officers.** No person shall simultaneously hold more than one of any of the elective positions except in the case of special appointments created pursuant to Section 2 of this Article.

**Section 5. Duties.** The duties of the Board members are as follows:

#### **President**

The President shall:

- (a) preside at all meetings of the Board and shall see that orders and resolutions of the Board are carried out;
- (b) sign all official correspondence to outside agencies or organizations relative to activities, actions and decisions of the Board;
- (c) review all correspondence and documents prepared by the Treasurer, Secretary or Chair of a standing committee for distribution to a Member or Members;
- (d) be an alternate signatory on all bank accounts and shall co-sign any promissory notes;
- (e) preside over all general and special membership meetings held by the Association;

(f) be responsible for coordinating the actions of all standing and special committees to ensure compliance with the Declaration and the Bylaws; and

(g) review the bylaws for compliance with changes to the POAA annually prior to the Annual General Membership Meeting and effect any required changes with the Board.

#### **Secretary**

The Secretary shall:

(h) record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members;

(i) serve notice of meetings of the Board and of the Members;

(j) keep appropriate current records showing the Members together with their addresses; and

(k) perform such other duties as required by the Board.

#### **Treasurer**

The Treasurer shall:

(l) receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board;

(m) sign all checks and promissory notes of the Association; keep proper books of account; prepare quarterly income statements for submission to the Board; file the annual Federal and State tax returns; file the annual reports to both the State Corporation Commission and to the Real Estate License Board; and shall, in coordination with the members of the Board, prepare an annual budget and a year to date income statement to be presented to the membership at the Annual General Membership Meeting. (A copy of the adopted budget shall be mailed to all Members with the annual assessment invoice, due January 1. The income statement for the fiscal year ended December 31 shall be distributed to all Members no later than April 15 following the year end.);

(n) provide annually to the Chair of the Covenants Committee, as required by the Property Owners Association Act, an updated budget statement and income statement to be included in the Association disclosure packets for property buyers; and

(o) prepare an annual financial statement as proscribed by the Property Owners Association Act. (An annual review of the financial statement and accompanying accounts and ledgers of the association will be made by the audit committee. A copy of the financial statement will be available to Members upon request, at no charge.)



### **Chair of the Common Grounds Committee**

The Chair of the Common Grounds Committee shall:

- (p) within the annual Association budget for those items, be responsible for the hiring of personnel, contracting of organizations, purchase of maintenance equipment, supplies, and materials, and for quality control actions necessary for the proper maintenance, servicing, care, and upkeep of the Common Areas;
- (q) report on the status of maintenance and repair activities at Board meetings or as requested by the President, and shall notify the President and Treasurer if a planned maintenance, repair, or servicing action could result in an obligation that exceeds the budgeted authority for that year;
- (r) submit an annual written report of the maintenance, repair, and service activities of the Common Areas completed in the past year and of those activities planned for the next budget year; and
- (s) prepare the reserve study as required by the Property Owners Association Act every five years, and shall update the results annually. This study or update should be completed by the time of the Annual General Membership Meeting.

### **Chair of the Covenants Committee**

The Chair of the Covenants Committee shall:

- (t) with the provision of the required financial and budget statements from the Treasurer, assemble and distribute association disclosure packets to all sellers of Mill Creek Landing property to be provided to the buyers in compliance with the Property Owners Association Act;
- (u) receive and review all plans and drawings from Owners or their representatives for the construction of new homes or major modification of existing homes, and with the members of the Covenants Committee, determine whether such plans comply with the Declaration;
- (v) receive and review all requests and plans from Owners or their representatives for the building, erection, or placement of outdoor items such as fences, decks, free standing flag poles and lights on their property; and with the members of the Covenants Committee, determine whether such plans are in compliance with the Declaration and notify the requester of action taken; and
- (w) with members of the Covenants Committee, enforce the Declaration and prepare correspondence for the President's signature to give notice to Owners where substantial noncompliance with the Declaration is discovered.



## Article X

### Committees

**Section 1. Nominating Committee.** The Board shall appoint a Nominating Committee, as provided for in these Bylaws in Article V.

**Section 2. Audit Committee.** The Board shall appoint an audit committee, to annually review the books and records of the Association, consisting of one or more Members of the Association. The President, Treasurer and any other Member who has signature authority on the Association bank accounts, cannot serve on the audit committee. In addition, any Member who lacks independence as described in the Audit and Accounting Guide published by the American Institute of Certified Public Accountants, cannot serve on the audit committee.

**Section 3. Other Committees.** The Board shall appoint other committees as deemed appropriate in carrying out its purpose.

## Article XI

### Fiscal Year

The fiscal year of the Association shall begin on the first day of January of every year and end on the 31<sup>st</sup> day of December of every year.

## Article XII

### Books and Records

**Section 1. Availability** (a) The books and records of the Association shall at all times be subject to examination and copying by any Member in good standing or his authorized agent so long as the request is for a proper purpose related to his/her membership. This right of examination may be exercised only at a mutually convenient time and location and upon five days written notice reasonably identifying the purpose for the request and the specific books and records of the Association requested. Under the Property Owners Association Act, certain books and records kept by or on behalf of an Association may be withheld from inspection and copying, including meeting minutes or other confidential records of an executive session of the Board, and records regarding pending or probable litigation. Prior to providing copies of any books and records to a Member, the Association may impose and collect a charge, reflecting the reasonable costs of materials and labor.

(b) The Declaration, Articles of Incorporation, and Bylaws of the Association shall be available for inspection by any Member and copies purchased at reasonable cost.

**Section 2. Disclosure Packet.** (a) The Seller of a Lot is obligated under the Property Owners Association Act in the Code of Virginia, Section 55-511 to provide a disclosure packet to the Buyer of the property. This disclosure packet, as mandated by the Act under section 55-512, shall be provided to each Seller within fourteen (14) days of receipt of a written request. A fee of \$20, covering association copying and other costs, must accompany the written request. The fourteen (14) day deadline will not start until both the written request and the fee are received by the Association. In addition, a rush fee of \$25 will be charged for a disclosure packet requested

for delivery within three days. It is at the discretion of the Association if delivery sooner than fourteen days can be accommodated. No rush fee shall be accepted if a three day delivery cannot be met.

(b) The purchaser of a Lot may submit a copy of the contract to the Association with a request for assurance that the information previously furnished in the disclosure packet remains materially unchanged or, if there have been material changes, a statement specifying such changes. The purchaser shall be provided with such assurances or such statement within ten days of the receipt of such request by the Association. A reasonable fee to reflect the actual cost of providing such assurances will be charged.

(c) Under state law, the Association has no obligation to deliver the disclosure packet to the purchaser of the lot. Failure by the seller to provide such disclosure packet to the purchaser does not negate the collection by the Association of any outstanding assessments on the Lot or the waiver of any violations to the Declaration regarding any improvements or alterations made to the lot. The purchaser is obligated to abide by the Declaration, Bylaws, rules and regulations, and architectural guidelines of the Association as to all matters.

**Section 3. Minutes of Meetings.** Draft minutes of the Board meetings shall be open for inspection and copying within sixty (60) days from the conclusion of the meeting to which such minutes appertain or when such minutes are distributed to Board members as part of an agenda package for the next Board meeting, whichever occurs first. It is the intent of the Board to publish a summary of such minutes in the quarterly Association newsletter.

## **Article XIII**

### **Assessments**

**Section 1. Assessment Payments.** As provided in the Declaration, each Member is obligated to pay to the Association annual and special assessments. Assessments are billed annually on January 1. Payment is due within thirty (30) days of receipt of assessment notice. Assessments that are unpaid after sixty (60) days from assessment date will be considered in arrears. No Owner may waive or otherwise escape liability for the assessments by non-use of the Common Areas or abandonment of his/her Lot.

**Section 2. Late Fee.** Assessments which are in arrears shall bear an interest charge from the date of assessment at a rate of twelve percent (12%) per annum, as specified in the Declaration.

**Section 3. Property Liens.** Owners in arrears will be notified in writing within thirty (30) days. Once notified, Owners have the right to request a hearing with the Board within thirty (30) days to discuss hardship issues. For hardship issues to be considered, there must be strong and compelling evidence that payment cannot be made (e.g. serious illness, extreme financial distress). Absent such evidence, the board shall have legal counsel place liens on such properties in arrears. The lien shall include the assessment, interest charges, costs and reasonable attorney fees and other allowed charges proscribed by the Declaration and the Property Owners Association Act, Section 55-516. Under this Act, the Association has the right to force a non-judicial foreclosure on the property.



**Section 4. Maximum Annual Increase.** Under the Declaration, the Board has the right to increase the annual assessment each year no more than fifty percent (50%) above the maximum assessment for the previous year without a vote of the membership. The maximum annual assessment may be increased above fifty percent (50%) by a vote of a duly constituted quorum as prescribed in Article IV, Section 4 (b) of these Bylaws. The Board may fix the annual assessment at any amount not in excess of the maximum allowed.

**Section 5. Special Assessments.** Under the Declaration, the Board may levy a special assessment for the purpose of defraying the cost of any construction, reconstruction, repair or replacement of a capital improvement in the Common Areas, provided such assessment is approved by a duly constituted quorum as prescribed in Article IV, Section 4(b) of these Bylaws.

## **Article XIV**

### **Amendments**

**Section 1. Amendments** These Bylaws may be amended, at a regular or special meeting of the Members, by a vote of the majority of the Members in good standing.

**Section 2. Controlling Authority** In case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control; in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control. The Property Owners Association Act of the Code of Virginia shall govern any issue on which the Bylaws and Declaration are silent.

- End -



# **MILL CREEK LANDING HOMEOWNERS' ASSOCIATION REPLACEMENT RESERVE SCHEDULE**

Updated to 17 November 2015

<u>Component</u>	<u>Qty</u>	<u>Unit Cost</u>	<u>Replacement Cost in Present Dollars</u>	<u>Year New</u>	<u>Year Now</u>	<u>Estimated Useful Life in Years</u>	<u>Estimated Remaining Useful Life in Years</u>	<u>2,015 Beginning Balance</u>	<u>Annual Reserve Funding Required</u>	<u>2015 Full Funding Goal</u>
Brick Entry	2	\$12,800	\$25,600	1,988	2,015	50	23	\$13,312	\$512	\$13,824
Irrigation Sys	1	\$5,000	\$5,000	2,015	2,015	10	10	-\$500	\$500	\$0
Well Pump	1	\$6,000	\$6,000	2,004	2,015	15	4	\$4,000	\$400	\$4,400
Entrance Lights	1	\$14,000	\$14,000	2,015	2,015	15	15	-\$933	\$933	\$0
Pond Bottom	1	\$100,000	\$100,000	2,014	2,015	15	14	\$0	\$6,667	\$6,667
			<u>\$150,600</u>					<u>\$15,879</u>	<u>\$9,012</u>	<u>\$24,891</u>

## Notes

1. Items to \$2,000 can be funded within operating budget.
2. "Beginning Balance" is replacement reserve as of date in column title.
3. "Annual Reserve Funding Required" is required annual addition to replacement reserve.
4. "Full Funding Goal" is balance needed as of end of fiscal year noted.

Encl (h)

AMENDMENT TO COVENANTS, CONDITIONS AND RESTRICTIONS

OF MILL CREEK LANDING

THIS AMENDMENT, dated the 26th day of May, 1989, by the undersigned.

W I T N E S S E T H :

WHEREAS, by Declaration of Covenants, Conditions, and Restrictions of Mill Creek Landing, dated March 15, 1988, (the "Declaration"), as recorded in Deed Book 393, page 56, in the Office of the Clerk of the Circuit Court of the City of Williamsburg and County of James City, John Grier Construction Company, a Virginia corporation, subjected certain real property in James City County, Virginia, as described in Exhibit A and Exhibit B of the Declaration, to the covenants, restrictions, easements, charges, and liens set forth therein; and

WHEREAS, under Section 3 of Article X of the Declaration, the Declaration may be amended at any time by an instrument of record after the written consent thereto by not less than 66-2/3% of the owners shall have been obtained; and


WHEREAS, Mill Creek Landing Associates is the record owner of more than 66-2/3% of the lots and has given their consent to the hereinafter amendment;

NOW, THEREFORE, the Declaration is hereby amended in Section 7, Article VII, as follows:

Section 7. Fences. Only wooden or brick fences, not exceeding six feet in height, are allowed, but no fence shall be built in front of the plane created by the dwelling unit. Plywood, stockage, concrete, stone, chain-link, wire and other sillar types of fences are prohibited.

IN WITNESS WHEREOF, Mill Creek Landing Associates has caused its name to be signed all as of the day and year first above written.

MILL CREEK LANDING ASSOCIATES

By   
John R. Brown, Jr.  
First Virginia Venture Capital, Inc.  
a Virginia corporation,  
general partner

BOOK 441 PART 136

By [Signature]  
Spectrum Development Corporation 9,  
a Virginia corporation,  
general partner

STATE OF VIRGINIA

COUNTY OF JAMES CITY, to-wit:

The foregoing Deed was acknowledged this 5th day of June, 1989, by  
John R. Bass as \_\_\_\_\_ of First Virginia  
Venture Capital, Inc., a Virginia corporation, general partner of Mill Creek  
Landing Associates, a Virginia general partnership, on behalf of the partnership.

My Commission Expires: 10-20-89

[Signature] formerly [Signature]  
Notary Public

STATE OF VIRGINIA

CITY OF NORFOLK

COUNTY OF JAMES CITY, to-wit:

The foregoing Deed was acknowledged this 5th day of June, 1989, by  
ALAN C. JEVSON as PRESIDENT of Spectrum  
Development Corporation, a Virginia corporation, general partner of Mill Creek  
Landing Associates, a Virginia general partnership, on behalf of the partnership.

My Commission Expires: 4/18/92

[Signature]  
Notary Public

VIRGINIA: City of Williamsburg and County of  
James City, to wit:

In the Clerk's office of the Circuit Court of the  
City of Williamsburg and County of James City the

20 day of July, 1989. This document  
to Commute was presented with certificate annexed and  
admitted to record at 11:28 o'clock

Teste: Helena S. Ward, Clerk

by [Signature]  
Deputy Clerk



AMENDMENT TO  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
OF MILL CREEK LANDING.

THIS AMENDMENT is made this 9th day of June, 1988, by John Grier Construction Company, a Virginia corporation, hereinafter referred to as "Declarant."

WHEREAS, Declarant recorded a Declaration of Covenants, Conditions and Restrictions of Mill Creek Landing, hereinafter referred to as "Declaration," in the Clerk's Office of the Circuit Court of James City County, Virginia, on June 1, 1988, which is recorded in Deed Book 393, page 56; and

WHEREAS, Declarant desires to amend the aforesaid Declaration.

W I T N E S S E T H:

Declarant hereby deletes the first sentence of the first paragraph on page 13 of the Declaration, which paragraph is entitled: "Section 2. Minimum Dwelling Size," and in place of the first sentence, the Declarant substitutes the following sentence: "The floor area of the enclosed portion of the main structure on any Lot shall not be less than 2,100 square feet for a one story structure, or less than 2,500 square feet for any structure of more than one story, without prior written consent of the Declarant."

All other provisions of the aforesaid Declaration are hereby reaffirmed.

WITNESS the following signature and seal this 9th day of June, 1988.

JOHN GRIER CONSTRUCTION COMPANY

By Joseph S. Terrell  
Joseph S. Terrell, Vice President

STATE OF VIRGINIA

CITY/COUNTY OF WILLIAMSBURG to-wit:

On this 9th day of JUNE, 1988, the foregoing Amendment was acknowledged before me by Joseph S. Terrell, Vice President of John Grier Construction Company, a Virginia corporation, on behalf of said corporation.

Joseph P. Abraham  
NOTARY PUBLIC

My commission expires: April 27, 1990

VIRGINIA: City of Williamsburg and County of James City, to-wit:

In the office of the Circuit Court of the City of Williamsburg and County of James City the

10 day of June, 1988. This Amendment

Restructure presented with certificate annexed and

admitted to record at 11:12 o'clock

at: Helen S. Ward, Clerk

by Helene S. Ward  
Deputy Clerk



DECLARATION

393 P. 56

OF COVENANTS, CONDITIONS, AND RESTRICTIONS

OF MILL CREEK LANDING

THIS DECLARATION, made on the date hereinafter set forth by John Grier Construction Company, a Virginia corporation, hereinafter referred to as "Declarant."

W I T N E S S E T H:

WHEREAS, Declarant is the owner of certain property in the County of James City, Virginia, State of Virginia, which is more particularly described on Schedule "A" which is attached hereto and made a part hereof.

NOW THEREFORE, Declarant hereby declares that all of the properties described in Schedule "A" shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

Section 1. "Association" shall mean and refer to Mill Creek Landing Homeowners Association, Inc., its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.



Section 3. "Properties" shall mean and refer to that certain real property hereinafter described in Schedule "A" and Schedule "B" and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the owners. The Common Area to be owned by the Association is described in Schedule "B" which is attached hereto and made a part hereof. The Declarant shall have the option to retain title to the Common Area, but only until such time as all lots have been conveyed to Owners, at which time the Common Area must be conveyed to the Association or it may convey title at any time prior thereto.

Section 5. "Lot" shall mean and refer to any numbered plot of land shown upon any recorded subdivision map of the Properties, with the exception of the Common Area and any property which constitutes Mill Creek Pond.

Section 6. "Declarant" shall mean and refer to John Grier Construction Company, a Virginia corporation, its successors and assigns. It is expressly intended that the Association shall succeed to all the rights and responsibilities of the Declarant as contained in this Declaration, upon conveyance of the Common Area to the Association.

## ARTICLE II

## PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- (a) the right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;
- (b) the right of the Association to suspend the voting rights and right to use of the recreational facilities by an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed 60 days for any infraction of its published rules and regulations;
- (c) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by at least 51% of each class of members has been recorded.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Every Owner of a Lot which is subject to assessment 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 2. The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners, with the exception of the Declarant, who shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member(s) shall be the Declarant and shall be entitled to five (5) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership; or

(b) on December 31, 1992.



# ARTICLE IV

## ADMINISTRATION OF THE COMMON AREA AND COVENANTS

### BY THE HOMEOWNERS ASSOCIATION

A nonprofit, nonstock Virginia corporation known as Mill Creek Landing Homeowners Association, will function as the Property Owners Association (the "Association"). The Association will administer the operation and management of the Common Area and shall have the power to perform all acts and duties incident to such administration in accordance with the terms of its Articles of Incorporation and its Bylaws which are filed with the Secretary of the Association. The Association shall have and is hereby granted the authority to enforce the provisions of this Declaration, the Articles of Incorporation and Bylaws and to enforce such rules and regulations governing the use of the Lots and all Common Areas of the Subdivision as the Board of Directors of the Association may determine.

The Board of Directors of the Association shall have, and is hereby granted, the authority and duty to levy and enforce the collection of general and special assessments for the common expenses of the Association.

# ARTICLE V

## COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Except for any Lot owned by the Declarant, the Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so

expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used: (a) to promote the recreation, health, safety and welfare of the residents in the Properties and for the improvement and maintenance of the Common Area and the improvements thereon, the payment of all legal taxes and assessments for said Common Area, and all reasonable expenses related thereto.

The Association shall keep the Common Area, and all improvements therein or thereon, free of debris and in good order and repair, including, but not limited to the seeding, watering and mowing of all lawns, the pruning and cutting of all trees and shrubbery and the

maintenance of the roadways and parking lots thereon, if any, all in a manner and with such frequency as is consistent with good property management and so as not to detract from the overall quality of the Properties and the health and safety of the residents. It is specifically provided hereby that the Association shall be responsible for all regular and special maintenance for the Mill Creek Pond in accordance for impounding structures as promulgated from time to time by the State Water Control Board. Therefore, it is understood and agreed by all Owners, their successors and assigns, that the assessments provided for herein shall be kept at a reasonable and adequate level to accomplish the foregoing purposes at all times.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be ONE HUNDRED TWENTY DOLLARS (\$120.00) per Lot.

(a) From and after January 1 of the year immediately following the conveyance of the Common Area to the Association, the maximum annual assessment may be increased each year by the Board of Directors of the Association, not more than 50% above the maximum assessment for the previous year without a vote of the membership.



(b) From and after January 1 of the year immediately following the conveyance of the Common Area to the Association, the maximum annual assessment may be increased above 50% by a vote of at least 51% of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

(c) The Board of Directors may fix the annual assessment at any amount not in excess of the maximum.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including the dam for Mill Creek Pond, fixtures and personal property related to the Common Area, provided that any such assessment shall have the assent of 51% of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for any Action Authorized Under Section 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 and 4 shall be sent to all members not less than 20 days in advance of the meeting. At the

first such meeting called, the presence of members or of proxies entitled to cast fifty percent (50%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-third (1/3) of the required quorum at the preceding meeting. No such subsequent meeting shall be held less than 20 days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis.

Section 7. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all Lots except those owned by the Declarant, on the first day of the month following the conveyance of the Common Area to the Association. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge,

furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of 12 percent (12%) per annum. The Association may bring an action at law against the Owner personally obligated to pay same, or foreclose the lien against the said property. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.



## ARTICLE VI

## PLANNING CONTROLS

Section 1. Purpose. The Declarant and its assigns shall regulate the external design, appearance, use and location of all improvements on the Property in such a manner so as to preserve and enhance values, to maintain a harmonious relationship among structures and the natural vegetation and topography, to conserve existing natural amenities and ecologically sensitive areas.

Section 2. Conditions. No building or other improvement shall be erected, placed, or altered on any of said lots until construction plans and specifications for building or improvement have been submitted in writing and approved in writing by the Declarant, or its assigns, as to external design and materials, harmony of external design with existing structures, and as to location on the Lot. No fence, wall, or any other exterior structure or device (such as outbuildings, antennae, satellite dishes) shall be erected, placed or altered on said lot unless similarly approved. If any such improvements are erected or placed on a lot without prior written approval, as aforesaid, then such improvements shall be removed forthwith upon written notice from the Declarant or its assigns.

Section 3. Temporary Structures. Except for the use of temporary construction sheds, trailers or portable lavatories during the period of actual construction of improvements on a lot, no shed, shack,

trailer, tent or any temporary or movable building or structure of any kind shall be erected on or permitted to remain on any residential lot. Runs and housing for pets, exterior heating, ventilation, air conditioners and mechanical equipment, barbecue pits, jungle gyms, sand boxes, swings, sliding boards, playhouses, tree houses and other recreational equipment may be erected only if adequately screened from the street and adjacent lots, so as not to be visible therefrom. Above ground outdoor pools shall not be permitted under any circumstance.

Section 4. Substantially Similar Structures. Substantially similar duplications of exterior architectural design will not be permitted when both structures are visually within range of each other.

#### ARTICLE VII

##### CONSTRUCTION CONTROLS

Section 1. Single Family Residences. The aforesaid lots shall be used for no purpose except for residential purposes. No building shall be erected, altered, placed or permitted to remain on any of said lots other than one detached private single family dwelling and its attendant outbuildings. Further, the use of a building for dwelling purposes shall be limited to a single family, as provided by the terms and provisions of any applicable zoning ordinance of the government in which the property is located.

Section 2. Minimum Dwelling Size. The floor area of the enclosed portion of the main structure on any Lot shall not be less than 1,800 square feet for a one story structure, or less than 2,200 square feet for any structure of more than one story, without prior written consent of the Declarant. A dwelling shall be deemed to be more than one story if the upper level has a floor area of more than eighty percent (80%) of the lower level. "Enclosed portion" shall mean that portion of the structure heated or otherwise temperature-controlled by the Occupant of the structure, but excluding basements, garages, porches, balconies and decks. Declarant in its sole discretion, may consent to a lesser floor area for the enclosed portion of the main structure if, in Declarant's sole opinion, the plans and specifications for the structure exceed the requirements of these covenants and restrictions and demonstrate excellence in design, engineering, materials, and/or energy efficiency.

Section 3. Completion of Structures. All structures must be substantially completed in accordance with the plans and specifications approved by the Developer within twelve (12) months after construction of the same shall have commenced, except that the Declarant may grant written extensions where such completion is made impossible because of matter beyond the control of the Owner or builder, such as strikes, casualty losses, national emergencies or acts of God. The building site must be kept clear of trash and other debris during the entire period of construction.



Section 4. Site Work.

(i) Each lot has building setback lines, as shown on the subdivision plats, which limit the lot area on which to construct a living unit, which setback lines must be observed in all particulars.

(ii) Slopes resulting from site grading which do not permit maintenance of a lawn, must be stabilized with other appropriate ground cover. All site grading must be done in a manner to avoid drainage of surface water onto adjoining lots, to the detriment of those lots, but in any event, natural drainage patterns must not be interrupted so as to impede the normal flow of surface water. Furthermore, all site grading must be done with an ecological concern for the natural preservation of Mill Creek Pond.

(iii) Retaining walls are subject to the prior written approval of the Declarant and will be permitted only if designed and constructed with approved brick, stone or wood.

(iv) All swimming pools must be screened from view so as not to be seen from the street.

(v) Implementation of site work must provide for necessary drainage pipes, and drainage ways, to insure stabilization and prevent future erosion. Appropriate erosion control, including but not limited to, straw bales, straw, matting, silt fences and seeding or sodding, must be used to prevent the washing of earth into drainage ways,

ravines, and Mill Creek Pond, during and after construction. Provisions must be made for existing drainage courses and structures. No existing drainage structures may be tapped or altered without the prior written approval of the Developer.

(vi) At the designated street entry to any lot, a sufficient amount of gravel on a firm, well-drained sub-grade must be installed to prevent mud and other debris from being tracked on the street during construction.

(vii) Within six months of substantial completion of a dwelling on a lot, the owner shall pave the driveway from the street entrance to the house, using asphalt, concrete or brick, or cover the driveway with pea stone.

(viii) No Lot or portion thereof may be used as an access way or right of way for ingress and egress to any other lot, piece or parcel of land, without the prior written approval of the Declarant.

#### Section 5. Exterior Colors and Materials.

(i) Any surface material that tends to reflect light, such as mirrors and artificial ornamental devices, are prohibited on exterior surfaces.

(ii) Exterior materials of plastic, vinyl, aluminum, plywood, including such wood panels known as T-111, simulated brick or simulated stone are prohibited, except that vinyl siding may be used on the exterior of any dwelling above the first story of any dwelling unit.

Section 6. Roofing.

(i) All plumbing vents, fan exhausts, solar panels and any other roof equipment, whether necessary or unnecessary, must be on the rear slope of the roof, unless an architectural problem would require otherwise, in which case the prior written approval of the Declarant must be first obtained.

(ii) Flat roofs are prohibited.

(iii) Roofing materials exposed to view or on slopes shall be of permanent quality, such as wood shingles or shakes, slate, cement-asbestos, asphalt shingles, standing seam material, fiberglass shingles or exposes aluminum.

Section 7. Fences. Only wooden fences, not exceeding four feet in height, are allowed, but no fence shall be built in front of the plane created by the dwelling unit. Plywood, stockade, concrete, stone, chain-link, wire and other similar types of fences are prohibited.

ARTICLE VIII

PROTECTIVE COVENANTS

Section 1. Use Controls.

(a) Restriction on Further Subdivision. No Lots shall be further subdivided or separated into smaller lots by any Owner (other than Declarant), without the written consent of the Declarant, or its



assigns, and no portion less than all of any such Lot, shall be conveyed or transferred by an Owner (other than the Declarant), provided, however, that this shall not prohibit deeds of correction, deeds to resolve boundary line disputes, and similar corrective instruments.

(b) Nuisances. No nuisance, or anything obnoxious or harmful, shall be permitted to exist or operate upon any Lot so as to be detrimental to any other person or property in the vicinity thereof.

Section 2. Maintenance of Property. Each Owner shall keep all Lots owned by him, and all improvements thereon, free of debris and in good order and repair, including, but not limited to the seeding, watering, and mowing of all lawns, the pruning and cutting of all trees and shrubbery and the painting (or other appropriate external care) of all buildings and other improvements, all in a manner and with such frequency as is consistent with good property management and so as not to detract from the overall beauty of the Property and the health and safety of the residents.

Section 3. Utility and Drainage Easements. The Declarant reserves unto itself, its successors and assigns, a perpetual, alienable easement and right of way:

(i) to construct, maintain, inspect, replace and repair electric and telephone wires, cables, conduits, sewer pipes, water mains, other

suitable equipment and facilities for the conveyance of water, sewer, gas, telephone, electricity, television cable communications or other utilities or public convenience on, over and under each Lot in such locations as may be designed for such purposes; and

(ii) for storm and surface water drainage, including the right to construct, maintain, inspect, replace and repair pipes, ditches, culverts and other suitable facilities for the disposition of storm and surface water drainage, on, over and under each Lot in such locations as may be designated for such purposes on the appropriate recorded plats of the subdivision.

The easements provided in Section 3(i) and (ii) shall include the right of ingress and egress and the right to cut any trees, brush and shrubbery, make any grading of soil, and take other similar action reasonably necessary to provide economical and safe utility installation and drainage facilities. The rights herein reserved may be exercised by any licensee of the Declarant, but shall not be deemed to impose any obligation upon the Declarant to provide or maintain any utility or drainage services.

In any event, all telephone, electric and other utility lines and connections between main utility lines and any and all structures on a Lot must be located underground.

Section 4. Household Pets. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot. Generally recognized household pets in reasonable numbers, such as dogs and cats, may be kept and maintained at an occupant's residence, provided such pets are not kept or maintained for commercial purposes.

Section 5. Signs. No sign of any kind shall be displayed to the public view on any Lot except one sign of not more than four (4) square feet advertising the property for sale or rent, or signs used by a building contractor to advertise the property during the construction and sales period.

Section 6. Trash Receptacles. None of said lots shall be used or maintained as a dumping ground for rubbish. Trash, garbage and other waste shall be kept in sanitary and closed containers and screened from view from any street.

Section 7. Boats, Trailers, etc. Overnight parking or storage of boats, trailers and all vehicles other than licensed, operable private passenger vehicles shall be kept in garages or screened enclosures approved in writing by the Declarant. Except for emergency repair, no Owner shall repair or store or permit others to repair or store any vehicle, boat or trailer upon any portion of the Property except in garages or screened enclosures approved by the Declarant.

Section 8. Clothes Drying and Equipment. No clothesline or laundry drying area shall be situated upon any Lot.



Section 9. Trash Burning. Trash, leaves and other similar material shall not be burned without the consent of appropriate governmental authorities.

#### ARTICLE IX

##### MILL CREEK POND AND COMMON AREAS

Section 1. Use. It is intended that all owners of lots in Mill Creek Landing shall have the use and enjoyment of Mill Creek Pond and the Common Areas as shown on the subdivision plats. In order to provide for reasonable and orderly use thereof, the Declarant and/or the Association shall publish Rules and Regulations from time to time which shall be binding and which shall control the Owners' use and enjoyment thereof. The Declarant has established initial Rules and Regulations which are available to any interested party who makes written request therefor from the Declarant, its current real estate agent or the Secretary of the Association. These Rules and Regulations may be modified or amended by the Declarant during the time that it has a majority of the voting rights, as provided by Article III. Thereafter, the Association shall be free to make amendments or modifications to the Rules and Regulations by appropriate action of its Board of Directors.

HOWEVER, THE DECLARANT RESTRICTS ANY USE OF PIERS, DOCKS, WHARFS, WHETHER FIXED OR FLOATING, AND SIMILAR STRUCTURES FROM BEING CONSTRUCTED OVER OR ON ANY PORTION OF MILL CREEK POND EXCEPT IN THE COMMON AREAS WHERE THE ASSOCIATION SHALL HAVE COMPLETE AND EXCLUSIVE AUTHORITY AND CONTROL OVER SUCH PIERS, DOCKS, WHARFS AND SIMILAR STRUCTURES.

Section 2. Compliance with Governing Law. Each Owner shall comply with all local, State and Federal laws regulating in any way the use of the waters and the land which comprise Mill Creek Pond.

Section 3. Declarant's Notice of Danger. The Declarant hereby gives notice to all prospective Owners and those who become Owners of Lots in Mill Creek Landing, together with all of those persons who have the right of enjoyment of the Common Area, as set forth in Article II, Section 2, that there are both hidden and obvious dangers to anyone who goes near to or uses a body of water, such as Mill Creek Pond. The Declarant has provided this Lake for the aesthetic value, use and enjoyment of the Owners and their designated users. Unsupervised children are always in danger around water and the Declarant will not provide any security or guards to control those who approach near or upon the waters of the Pond. Therefore, all Owners are hereby notified and cautioned to approach Mill Creek Pond with the care and caution that is reasonable under all circumstances, and to see that all children under their control are given adequate warnings and instructions concerning approaching or using said Pond.

#### ARTICLE X

##### GENERAL PROVISIONS

Section 1. Enforcement. The Declarant, the Association, or any Owner, shall have the right to enforce, by any proceeding at law or in

equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Declarant, the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or Court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended by the Declarant at any time prior to the conveyance of the Common Area, and thereafter by an instrument signed by not less than sixty-six and two-thirds percent (66 2/3%) of the Lot Owners. Any amendment must be recorded, and if made solely by the Declarant, a true copy must be mailed by first class mail to each lot owner of record.

Section 4. Various Section of Mill Creek Landing. Eight sections of Mill Creek Landing will be developed by the Declarant, containing a total of ninety-two (92) individual Lots. It is the intent of the Declarant to integrate all sections into the common plan of development



of Mill Creek Landing as approved by James City County and any other governmental authorities. Therefore, Mill Creek Landing Homeowners Association, Inc. shall serve as the single Association for all phases of Mill Creek Landing.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set it hand and seal this 15<sup>th</sup> day of MARCH, 1988.

JOHN GRIER CONSTRUCTION COMPANY

By Joseph S. Terrell  
Joseph S. Terrell, Vice President

STATE OF VIRGINIA

CITY OF WILLIAMSBURG, to-wit:

The foregoing Declaration was acknowledged before me by Joseph S. Terrell, Vice President of John Grier Construction Company, a Virginia corporation, on behalf of said corporation, on this 15<sup>th</sup> day of MARCH, 1988.

My commission expires: 12-6-88

[Signature]  
Notary Public

SCHEDULE "A"

All that certain real property situated in James City County, Virginia, as shown and set forth on those certain subdivision plats entitled: "Mill Creek Landing, Section 1, Section 2, Section 3, Section 4, Section 5, Section 6, Section 7 and Section 8," made by L. V. Woodson & Associates, Inc., as contained on Drawings numbered A 3732-14 through A 3732-21. Only the plat for Section 1, Mill Creek Landing is being recorded herewith, but the other seven (7) sections thereof will be recorded at a later date.

SCHEDULE "B"

All those certain lots, pieces or parcels of land, situate, lying and being in James City County, Virginia, as shown and set forth as "COMMON AREA" on "PLAT OF MILL CREEK LANDING, SECTION 2," "PLAT OF MILL CREEK LANDING, SECTION 4" and "PLAT OF MILL CREEK LANDING, SECTION 8," made by L. V. Woodson & Associates, Inc. to be recorded later in the Clerk's Office for the County of James City, Virginia. Also, the land which comprises the area to be covered by Mill Creek Pond and more specifically, all that land lying below Elevation 57, as contained in the Project Engineer's (L. V. Woodson & Associates, Inc.) datum.

Plat Book 48  
Page 84

VIRGINIA: City of Williamsburg and County of James City, to wit:  
In the Clerk's Office of the Circuit Court of the City of Williamsburg and County of James City the  
Y Plat 1 of June, 1960. This Restriction  
was presented with certificate annexed and  
admitted to record at 3:46 o'clock  
Tested Elmer S. Ward Clerk  
by Robert Shick  
Deputy Clerk

ARTICLES OF INCORPORATION

OF

MILL CREEK LANDING HOMEOWNERS ASSOCIATION, INC.

In compliance with the requirements of Section 13.1-801, et seq. of the Code of Virginia, the undersigned, a resident of the State of Virginia and of full age, has this day prepared these Articles of Incorporation for the purpose of forming a corporation not for profit and does hereby certify:

ARTICLE I

The name of the corporation is MILL CREEK LANDING HOMEOWNERS ASSOCIATION, INC., hereinafter called the "Association."

ARTICLE II

The registered office of the Association is located in the City of Williamsburg, Virginia, at the following address: 1148 Professional Drive, Williamsburg, Virginia 23185.

ARTICLE III

Joseph A. Abdelnour, who is a resident of Virginia and a member of the Virginia State Bar, whose address is 1148 Professional Drive, Williamsburg, Virginia 23185, is hereby appointed the initial registered agent of this Association.

ARTICLE IV

PURPOSE AND POWERS OF THE ASSOCIATION

This Association does not contemplate pecuniary gain or profit to the members thereof, and the specific purposes for which it is formed are to provide for maintenance, preservation and architectural control of the residence Lots and Common Area (within that certain tract of

encl (j)



property described as: See attached legal description marked "Exhibit A") and to promote the health, safety and welfare of the residents within the above-described property and any additions thereto as may hereafter be brought within the jurisdiction of this Association for this purpose to:

A. Exercise all of the powers and privileges and to perform all of the duties and obligations of the Association as set forth in certain Declarations of Covenants, Conditions and Restrictions of Mill Creek Landing, hereinafter called the "Declaration," applicable to the property and recorded or to be recorded in the office of the Clerk of the Circuit Court for the City of Williamsburg and County of James City, Virginia, and as the same may be amended from time to time as therein provided, said Declaration being incorporated herein as if set forth at length;

B. Fix, levy, collect and enforce payment by any lawful means, all charges or assessments pursuant to the terms of the Declaration; to pay all expenses in connection therewith and all office and other expenses incident to the conduct of the business of the Association, including all licenses, taxes or governmental charges levied or imposed against the property of the Association;

C. Acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the Association;

D. Borrow money and, with the assent of two-thirds (2/3) of each class of members, mortgage, pledge, deed in trust or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred;

E. Dedicate, sell or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument has been signed by two-thirds (2/3) of each class of members, agreeing to such dedication, sale or transfer;

F. Participate in mergers and consolidations with other nonprofit corporations organized for the same purposes or annex additional residential property and Common Area, provided that any such merger, consolidation or annexation shall have the assent of two-thirds (2/3) of each class of members;

G. Have and to exercise any and all powers, rights and privileges which a corporation organized under the Non-Profit Corporation Law of the State of Virginia by law may now or hereafter have or exercise.

#### ARTICLE V

#### MEMBERSHIP

Every person or entity who is a record owner of a fee, or undivided fee, interest in any Lot which is subject by covenants of

record to assessment by the Association, including contract sellers, shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to, and may not be separated from, ownership of any Lot which is subject to assessment by the Association.

#### ARTICLE VI

##### VOTING RIGHTS

The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners, with the exception of the Declarant, and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member(s) shall be the Declarant (as defined in the Declaration), and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership; or
- (b) on December 31, 1990.



## ARTICLE VII

### BOARD OF DIRECTORS

The affairs of this Association shall be managed by a Board of five (5) Directors, who must be members of the Association. The number of directors may be changed by amendment of the By-Laws of the Association. The names and addresses of the persons who are to act in the capacity of directors until the selection of their successors are:

<u>NAME</u>	<u>ADDRESS</u>
Joseph S. Terrell	P. O. Box 191 Williamsburg, VA. 23187
Essie G. Terrell	P. O. Box 191 Williamsburg, VA. 23187
Joseph A. Abdelnour	1148 Professional Dr. Williamsburg, VA. 23185

Terms of the Directors service may be determined by the By-Laws.

## ARTICLE VIII

### DISSOLUTION

The Association may be dissolved with the assent given in writing and signed by no less than two-thirds (2/3) of each class of members. Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Association was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any nonprofit corporation, association, trust or other organization to be devoted to such similar purposes.

ARTICLE IX

DURATION

The corporation shall exist perpetually.

ARTICLE X

AMENDMENTS


Amendment of these Articles shall require the assent of two-thirds of the members present or represented by proxy at a meeting called in accordance with the By-Laws for the purpose of considering any such amendment.

ARTICLE XI

Each person now or hereafter a director or officer of the Corporation (and his heirs, executors and administrators) shall be indemnified by the Corporation against all claims, liabilities, judgments, settlements, costs and expenses including all attorneys' fees, imposed upon or reasonably incurred by him in connection with or resulting from any action, suit, proceeding or claim to which he is or may be made a party by reason of his being or having been a director or officer of the Corporation (whether or not a director or officer at the time such costs or expenses are incurred by or imposed upon him), except in relation to matters as to which he shall have been finally adjudged in such action, suit or proceeding to be liable for gross negligence or wilful misconduct in the performance of his duties as such director or officer. In the event of any other judgment against

such director or officer, or in the event of a settlement, the indemnification shall be made only if the Corporation shall be advised, in case none of the persons involved shall be or have been a director, by the Board of Directors of the Corporation, and otherwise by independent counsel to be appointed by the Board of Directors, that in ~~its or his~~ opinion such director or officer was not guilty of gross negligence or wilful misconduct in the performance of his duty, and in the event of a settlement, that such settlement was, or is, in the best interest of the Corporation. If the determination is to be made by the Board of Directors, it may rely as to all questions of law on the advice of independent counsel. Such rights of indemnification shall not be deemed exclusive of any rights to which he may be entitled under any by-law, agreement, vote of stockholders or otherwise.

IN WITNESS WHEREOF, for the purpose of forming this corporation under the laws of the State of Virginia, I, the undersigned, constituting the incorporator of this Association, have executed these Articles of Incorporation this 18th day of May, 1988.

  
Joseph A. Abdelnour



322136

COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION  
May 26, 1988

CERTIFICATE OF INCORPORATION

The State Corporation Commission has found the accompanying articles submitted on behalf of

MILL CREEK LANDING HOMEOWNERS ASSOCIATION, INC.

to comply with the requirements of law, and confirms payment of all related fees.

Therefore, it is ordered that this

CERTIFICATE OF INCORPORATION

be issued, and admitted to record with the articles in this office of the Commission, effective May 26, 1988.

This order and its accompanying articles will be forwarded for filing in the office of the Clerk of the Circuit Court of City of Williamsburg following admission to the records of the Commission.

STATE CORPORATION COMMISSION

By Elizabeth B. Lacy  
Commissioner

Court Number: 221

01519NEW

MINUTES OF MCLHA BOARD MEETINGS DURING  
SIX MONTHS PRECEDING REQUEST FOR THIS PACKET

The VIRGINIA PROPERTY OWNERS' ASSOCIATION ACT requires that all new owners of property in a property owners' association be given, "*a copy of any approved minutes of the board of directors and association meetings for the six calendar months preceding the request for the disclosure packet.*" Following this sheet are minutes of meetings held by MCLHA Board within the last six months.

# MCLHOA Board Meeting Minutes

Date: February 3, 2021

Place: Virtual / Zoom (due to COVID-19)

Attendees: David Sherman (President), Joseph Gasbarre (Secretary), Daniel Maliniak (Treasurer), Jim Halstead (Grounds/Covenants), Marcia Murphy (Covenants Chair)

Guests: Robert Johnson (3640 Bridgewater), Matthew Fass (3683 Bridgewater)

- Board Executive Meeting Call to Order at 7:01 PM EST by the President
- Quorum Determination: Passed
- Introduction of Guests and others from outside of the board
  - See list above
- Approval of Minutes from last quarterly board meeting (Gasbarre)
  - Minutes approved (motion by Mr. Halstead and seconded by Mr. Sherman)
- Covenants Report (Murphy)
  - Dreschel's moved in 4948 Burnley Drive (last move-ins) (Leslie and Bill)
  - No new covenant or disclosure packets distributed this quarter
  - Mr. Brown's house will be coming up for sale
  - No work has started on the solar panels
  - No progress on the above ground pool at 3649 Bridgewater
    - Released covenant infraction letter to homeowner
    - Mr. Halstead will discuss status with our legal representation (Mr. Heikes)
  - Received another request to build a fence at 3605 Bridgewater
- Grounds Report (Halstead)
  - No Fall Work Day was held due to COVID-19 pandemic; will push to a spring work day (to be scheduled)
  - Working with Mr. Kelly Tremblay on plans for a set of gabions to fill in the washout area in the neighborhood common area on Burnley Dr.; have installed a small fence to protect area for now
  - Dam is full right now - stilling pond is water-filled right now
  - Status on valve cap on dam:
    - Mr. Halstead has access to a 50' crane arm we can use at the next work day to move the cap (~700 lbs)
- Treasurer's Report (Maliniak)
  - On plan collecting the assessment dues
  - Reimbursement for the Intuit Quickbooks requested - motion granted by board
- Remarks by President (Sherman)
- New Business
  - Lessons learned from Annual Meeting
    - Perhaps do the virtual meeting once a year
    - Some in the neighborhood were intimidated by the virtual environment
  - Mr. Gasbarre to investigate with Dr. Maliniak investing in a G-Suite for the neighborhood
- Old Business
  - None
- Adjourned at 8 PM EST



Mill Creek Landing Homeowners Association, Inc.  
Complaint Procedure  
Policy Resolution 2012-001

WHEREAS, in accordance with Va. Code Ann. § 55-530 E, Mill Creek Landing Homeowners Association, Inc. (the "Association") is required to have a written process for resolving Association Complaints from members and citizens. The Association's Complaint Procedure shall conform to the requirements set forth in Va. Code Ann. § 55-530, the Common Interest Community Ombudsman Regulations (the "Regulations"), and the Association governing documents, which shall not be in conflict with Va. Code Ann. § 55-530 or the Regulations; and

WHEREAS, it is the intent of the Board of Directors to adopt a Complaint Procedure and Complaint Form that comply with Va. Code Ann. § 55-530, the Regulations, and the Association governing documents.

NOW THEREFORE, it is hereby RESOLVED that the Board of Directors of Mill Creek Landing Homeowners Association, Inc. hereby adopts the following policy:

A. PROCESS FOR SUBMITTING AN ASSOCIATION COMPLAINT.

1. Members and citizens wishing to file an Association Complaint shall use the attached Complaint Form. All Association Complaints must be in writing.
2. An Association Complaint shall concern a matter regarding the action, inaction, or decision by the Board of Directors, managing agent, or the Association inconsistent with applicable laws and regulations. An Association Complaint does not include complaints regarding internal issues in the Association related to the Association's Declaration, Bylaws, Rules or Regulations or Policies. Complaints that are not covered by this Policy Resolution shall be returned to the Owner.
3. The completed Complaint Form shall be delivered to the Association as follows:

Mill Creek Landing Homeowners Association, Inc.  
c/o Anna Martin  
P.O. Box 5784  
Williamsburg, VA 23188
4. The Association shall provide written acknowledgment of receipt of the Complaint Form to the complainant within seven (7) days of receipt.
5. The complainant shall describe the nature of the Association Complaint, including dates, locations and persons involved. The complainant shall include references to the specific facts and circumstances at issue. The complainant must set forth the specific documents, provisions, statutes or regulations that support

his/her Association Complaint, and provide copies of any specific documents referenced. The complainant shall describe the specific action or resolution requested.

6. If the Association requires additional information that is necessary in order to continue processing the Association Complaint, the Association shall notify the complainant of the request within twenty-one (21) days of receipt of the completed Complaint Form. If the additional information is not received by the Association within ten (10) days of the Association's request, the Association shall send a letter notifying the complainant of the non-compliance, and close the Association Complaint.
7. Once the Association has received all of the requested information, the Association will schedule a date and time to consider the Association Complaint. Notice of the date, time, and location that the matter will be considered shall be sent to the complainant seven (7) days prior to the scheduled date.
8. After the Board of Directors makes its final determination, written notice shall be sent to the complainant within (7) seven days. The notice of final determination shall be dated as of the date of issuance and include specific citations to applicable Association governing documents, laws, or regulations that led to the final determination, as well as the registration number of the Association. If applicable, the name and license number of the common interest community manager shall also be provided.
9. The notice of final determination shall include the complainant's right to file a Notice of Final Adverse Decision with the Common Interest Community Board via the Common Interest Community Ombudsman and the applicable contact information.
10. A record of each Association Complaint filed with the association shall be maintained by the Association for one year after notice of the final determination is sent to the complainant.
11. Any correspondence required to be sent by the Association to the complainant, as set forth above, shall be hand delivered or mailed by registered or certified mail, return receipt requested, to the complainant at the address provided, or if agreed to by the complainant, by electronic means provided the Association retains sufficient proof of the electronic delivery.

**B. NOTICE OF ADVERSE DECISION.**

1. A complainant may file a notice of final adverse decision in accordance with Va. Code Ann. § 55-530 F concerning any final adverse decision that has been issued by the Association in response to an Association Complaint.



2. The notice shall be filed within 30 days of the date of the final adverse decision.
3. The notice shall be in writing on forms provided by the Office of the Common Interest Community Ombudsman. The notice shall include a copy of the Complaint Form, and supporting documentation, the final adverse decision, reference to the laws and regulations the final adverse decision may have violated, any supporting documentation related to the final adverse decision, and a copy of the Association's Complaint Procedure.
4. The notice shall be accompanied by a \$25 filing fee or a request for waiver.
5. The contact information for the Office of the Common Interest Community Ombudsman is as follows:

Heather Gillespie, Ombudsman  
Department of Professional and Occupational Regulation  
9960 Mayland Drive, Suite 400  
Richmond, Virginia 23233-1463  
Phone: 804-367-2941  
Email: CICOmbudsman@dpor.virginia.gov
6. Upon receipt of the notice of final adverse decision from the complainant, along with the filing fee or a waiver of the filing fee approved by the Common Interest Community Board ("CIC Board"), the Office of the Common Interest Community Ombudsman shall provide written acknowledgment of receipt of the notice to the complainant and shall provide a copy of the written notice to the Association. The notice of adverse decision will not be reviewed until the filing fee has been received or a waiver of filing fee has been granted by the CIC Board.
7. Upon request, the Association shall provide information requested by the Office of the Common Interest Community Ombudsman within a reasonable time.
8. Upon review of the notice of final adverse decision in accordance with Va. Code Ann. § 55-530 G, if the Director of the Department of Professional and Occupational Regulation (the "Director") determines that the final adverse decision may be in conflict with laws or regulations governing common interest communities or interpretations thereof by the CIC Board, the Director may, in his sole discretion, provide the complainant and the Association with information concerning such laws or regulations governing common interest communities or interpretations thereof by the CIC Board.
9. The determination of whether the final adverse decision may be in conflict with laws or regulations governing common interest communities or interpretations thereof by the CIC Board shall be a matter within the sole discretion of the



Director. Such decision is final and not subject to further review. As set forth in Va. Code Ann. 55-530 E, the determination of the Director shall not be binding upon the complainant or the Association that made the final adverse decision.

C. NOTIFICATION OF COMPLAINT PROCEDURE.

1. The Complaint Procedure is available to all members of the Association and citizens upon request made to Anna Martin, P.O. Box 5784, Williamsburg, VA 23188.
2. The Complaint Procedure shall be included as an attachment to the resale certificate or the association disclosure packet.

This Resolution is effective December 1, 2012.

Adopted at a meeting of the Board of Directors on \_\_\_\_\_, 2012.

Anna B. Martin  
President

December 4, 2012  
Date

Attest:

Marcia Muzsky  
Secretary

December 4, 2012  
Date

## COMPLAINT FORM

This form must be completed and signed to have your complaint processed by the Association.

### Contact Information

Name of Complainant: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone numbers: \_\_\_\_\_ (Home) \_\_\_\_\_ (Cell) \_\_\_\_\_ (Work)

Email address: \_\_\_\_\_

Preferred method of communication:

I request that you use my ☐ email address or

☐ certified or registered mail, return receipt requested, to my address listed above.

### Complaint

Please describe the nature of your complaint, including dates, locations and persons involved. You should include references to the specific facts and circumstances at issue. Please reference any specific documents, provisions, statutes or regulations that support your complaint. Please provide copies of any referenced documents or provisions of the documents. If the space below is insufficient, please attach a separate sheet of paper to this form.

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### **Submission of Complaint**

Submit your complaint and all attachments via US Mail or hand-delivery using the address below:

Mill Creek Landing Homeowners Association, Inc.  
c/o Anna Martin  
P.O. Box 5784  
Williamsburg, VA 23188

### **Processing of Complaint**

The Association will acknowledge receipt of your complaint, in writing, within seven (7) days after receiving your complaint. If you do not receive acknowledgment of your complaint, please notify the Association immediately. If the Association requires any additional information to process your complaint, you will be notified in writing, within twenty-one (21) days of receipt of your completed Complaint Form. If the Association requests additional information you will have ten (10) days to deliver the additional information. The Board of Directors will notify you, in writing, of the date, time and location that your complaint will be considered. After final determination is made, written notice of the decision will be sent to you. All notices will be sent to you by electronic mail or mailed by registered or certified mail, return receipt requested, as you have selected above. If you did not select a preferred method of communication, notices will be mailed to you by registered or certified mail, return receipt requested.

### **Notice of Final Adverse Decision**

Pursuant to Va. Code Ann. § 55-530F, you have the right to file a notice with the Common Interest Community Board (the "CIC Board") if you receive an Adverse decision from the Association. An Adverse decision means the final determination issued by the Association pursuant to the Association's Complaint Procedure that is opposite of, or does not provide for, either wholly or in part, the cure or corrective action sought by the complainant. In accordance with Va. Code Ann. § 55-530F, (i) your notice must be filed with the CIC Board within thirty (30) days of the date of the final adverse decision; (ii) your notice shall be in writing on forms provided by the Office of the Common Interest Community Ombudsman; (iii) your notice shall include copies of all records pertinent to the decision; and (iv) your notice shall be accompanied by a \$25.00 filing fee. Please note that the CIC Board may, for good cause shown, waive or refund the filing fee upon a finding that payment of the filing fee will cause undue financial hardship for the complainant. The notice shall be sent to the Common Interest Community Board, Department of Professional and Occupational Regulation, 9960 Mayland Drive, Richmond, VA 23233-1463. The phone number and email address for the Office of the Common Interest Community Board is (804) 367-8500 and [cic@dpor.virginia.gov](mailto:cic@dpor.virginia.gov)

### **Required Signature**

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Signature



THIS PAGE FOR ASSOCIATION USE ONLY

Date Complaint Received: \_\_\_\_\_

Signature and Printed Name of Person Receiving Complaint:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

Date Acknowledgment Sent to Complainant: \_\_\_\_\_ ☐ by email ☐ by U.S. Mail

Signature and Printed Name of Person Sending Acknowledgment:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

Date of Decision of Board of Directors: \_\_\_\_\_

Date When Decision Sent to Complainant: \_\_\_\_\_ ☐ by email ☐ by U.S. Mail

Signature and Printed Name of Person Sending Decision to Complainant:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

*Tarley Robinson, PLC*  
6/2012

**MILL CREEK LANDING HOMEOWNERS ASSOCIATION, INC.**

**RESOLUTION OF BOARD OF DIRECTORS**

Rules and Regulations

WHEREAS, Va. Code Ann. § 55-513 provides the Board of Directors with the power to establish, adopt, and enforce rules and regulations with respect to use of the common areas and with respect to such other areas of responsibility assigned to the association by the declaration, except where expressly reserved by the declaration to the members; and

WHEREAS, Article VIII, Section 1 of the Bylaws (Adopted September 12, 2005) provides the Board of Directors with the power to establish, adopt and enforce rules and regulations governing the use of the Common Areas, facilities, the personal conduct of the Members and their guest, and to establish penalties for the infraction thereof; and

WHEREAS, Article IV of the Declaration of Covenants, Conditions, and Restrictions of Mill Creek Landing dated March 15, 1988 and recorded June 1, 1988 in Deed Book 393, page 60 in the Clerk's Office of the Circuit Court of the County of James City, Virginia (the "Declaration") provides that the Association shall have the authority to enforce the provisions of the Declaration, the Articles of Incorporation and Bylaws and to enforce such rules and regulations governing the use of the Lots and all Common Areas; and

WHEREAS, the Board of Directors has determined that it is in the best interest of the Association to adopt the following rules and regulations in accordance with the authority set forth above and Virginia law.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors adopts the following rules and regulations:

**RULES AND REGULATIONS**

**MILL CREEK LANDING HOMEOWNERS ASSOCIATION**

Enforcement: The Board of Directors shall have the power to enforce the provisions of the Declaration of Covenants and any Rules and Regulations adopted pursuant thereto, by any method normally available to an owner of private property in Virginia, including, but not limited to, application for injunctive relief or damages. Virginia Code § 55-513 provides that, in such an action, the court may award to the Association court costs and reasonable attorneys fees.

NOTE: This resolution was adopted by the MCLHA Board at the Board meeting of March 3, 2012.

encl (m)

The Board of Directors shall also have the power to (i) suspend a member's right to use facilities or services, including utility services, provided directly through the association for nonpayment of assessments which are more than sixty days past due, to the extent that access to the lot through the common areas is not precluded and provided that such suspension shall not endanger the health, safety, or property of any owner, tenant, or occupant and (ii) assess charges against any member for any violation of the Declaration or Rules and Regulations for which the member or his family members, tenants, guests, or other invitees are responsible.

Before any such charges or suspension may be imposed, the member shall be given an opportunity to be heard and to be represented by counsel before the Board of Directors. Notice of a hearing, including the charges or other sanctions that may be imposed, shall be hand delivered or mailed by registered or certified mail, return receipt requested, to the member at the address of record with the Association at least fourteen days prior to the hearing.

The amount of any charges so assessed shall not be limited to the expense or damage to the Association caused by the violation, but shall not exceed fifty dollars for a single offense or ten dollars per day for any offense of a continuing nature and shall be treated as an assessment against the member's lot for the purposes of Virginia Code § 55-516. However, the total charges for any offense of a continuing nature shall not be assessed for a period exceeding ninety days. If the member files a lawsuit challenging any such charges, no additional charges shall accrue after the date the lawsuit is filed. However, if the court rules in favor of the association, it shall be entitled to collect such charges from the date the lawsuit was filed as well as all other charges assessed against the lot owner prior to the filing of the lawsuit.

The result of the hearing shall be hand delivered or mailed by registered or certified mail, return receipt requested, to the member at the address of record with the association within seven days of the hearing.