

July 29, 2021

Honorable Scott Korthuis
Mayor, City of Lynden
300 4th Street
Lynden, WA. 98264

SUBJECT: Homestead Residents Petition to the City of Lynden

Dear Mayor Korthuis

We the undersigned are requesting action from Lynden City Officials to assist in resolving a dispute between 18 Paradise, MJ Management, and the City of Lynden. We are the residents that purchased houses, condominiums, and other properties in Homestead Planned Residential Development (PRD). The failure of the City of Lynden to enforce codes, ordinances, contracts, and regulations, both in the past and present, has resulted in the homeowners within the Homestead Farms development being denied due process to actively and constructively participate in the common areas maintenance plans or protocols. This has placed a hardship on many owners and thus provided the impetus for the residential owners at Homestead Farms to engage in class action litigation. There are approximately 2,500 residents that are impacted in the litigation, of which over 90% are supportive.

The main provision at question in the class action lawsuit is the monthly "maintenance fee" that residential owners pay per the Master Homestead Farms Covenants, Conditions & Restrictions¹ (CC&R's). The maintenance fee was generated to address the maintenance of approximately 8.77 acres of common space areas within the Homestead development. The current declarant, 18 Paradise, submitted amendments 6 and 7 to the CC&R's that allowed for a special assessment fee and the raising of the monthly fees from \$36 to \$93. These tactics are highly questionable.

Unfortunately, the City of Lynden is party to the suit as a defendant due to the allowing of the current owner and past owners to ignore and fail to comply with State and Local code sections and contractual agreements between the owner of the golf course and the City of Lynden. Specifically, the affected sections are as follows:

1. The Developer/Declarant never created a homeowner's association as required per Planned Residential Development Ordinance² (PRD Ordinance) 19.29.020, and the Lynden Municipal Code³ (LMC) 19.29.130.
2. The common areas for the Homestead PRD were never defined as required per PRD Ordinance 19.29.120&130, and LMC 19.29.090.
3. A Final PRD agreement was never approved by the City of Lynden (COL) as required per PRD Ordinance 19.29.060.
4. Neither a Preliminary or a Final PRD agreement was recorded with Whatcom County as required per PRD Ordinance 19.29.150, and LMC 19.29.100.
5. Privately owned land has been designated as common open space without meeting the requirements of PRD Ordinance 19.29.090.D.

6. Amendments to the CC&Rs (including amendments 6 and 7) were never reviewed and approved by the COL as required by the PRD Preliminary Agreement⁴ (PRD Contract) Sect. 17, and LMC 19.29.130.
7. Being that there is no established Homeowners Association accepted by the COL, the COL has failed to enforce the responsibility of the golf course owners to provide private street cleaning, maintenance, snow removal and storm drain maintenance as required per the PRD Contract Section 10.C.
8. Being that there is no established Homeowners Association accepted by the COL, the COL has failed to enforce the responsibility of the golf course owners to provide maintenance of all trees planted along private and public streets within the PRD per the PRD Contract Section 14.
9. Homestead PRD owners have been denied the opportunity to elect to have The Uniform Common Ownership Interest Act⁵ (CIOA) apply entirely as required by RCW 64.90.095.
10. Homestead PRD owners have been denied the opportunity to adopt a budget as required by RCW 64.90.095.
11. Homestead PRD owners have been denied the opportunity to determine assessments for common or specifically allocated expenses as required per RCW 64.90.080(1) and RCW 64.90.525.

REFERENCES

1. ***Master Declaration of Covenants, Conditions and Restrictions and Reservations for HOMESTEAD, A PLANNED RESIDENTIAL DEVELOPMENT.*** ("CC&Rs") approved by James Wynstra, President, Homestead Northwest, Inc. [7.24.1992]
2. ***Ordinance No. 905 Establishing a Planned Residential Development Zone.*** ("PRD Ordinance") approved by the City of Lynden [1.21.1992]
3. ***The Lynden Municipal Code, Chapter 19.29 PLANNED RESIDENTIAL DEVELOPMENT OVERLAY.*** ("LMC")
4. ***HOMESTEAD NORTHWEST, INC. PLANNED RESIDENTIAL DEVELOPMENT Preliminary Plan (As amended and approved)*** ("PRD Contract") approved by the COL and James Wynstra, President, Homestead Northwest, Inc. [7.22.1992]
5. ***Chapter 64.90 RCW, The Uniform Common Ownership Interest Act (CIOA),*** as passed by the Washington State legislature. ("RCW") [7.1.2018]

aforementioned sections should have been enforced with the original declarant/owner, Mr. James Wynstra, subsequent owner, Mr. Bill Robbins, and the current owner, Mr. Maurice Chen. As of this date, each of the owners has been "let off the hook." The hardship on many is evident. The residents are paying strict attention to the actions of the defendants and are seeking justice.

NOW THEREFORE, we, the undersigned homeowners within the Homestead PRD hereby petition the City, the County, and the State as follows:

1. We petition the City to exercise its power to enforce the Ordinance and the PRD Contract and compel the declarant to complete the formation and organization of the Homestead Owners Association ("HOA"), as required by the Ordinance.
2. We petition the City to exercise its power to enforce the Ordinance and the PRD Contract and compel the declarant to divest itself of the Homestead PRD common open space and to transfer the common open space to the HOA.
3. We Petition the City to exercise its rights under the PRD Contract and review the Sixth and Seventh Amendments.
4. We Petition the City to exercise its rights under the PRD Contract and reject the Sixth and Seventh Amendments as inconsistent with the PRD Ordinance and the PRD Contract.
5. We petition The County to investigate the execution of the Sixth and Seventh Amendments to determine if they were lawfully signed by the declarant.
6. We petition The County to take such actions as are appropriate if the Sixth and Seventh Amendments were improperly or illegally recorded.
7. We petition the State to enforce the provisions of the COIA that are applicable to the Homestead PRD.

If you have any questions regarding this petition or any questions for the homeowners, please contact Lynn Button, 8856 Depot Road Unit B Lynden, WA. 98264 or call (559) 906-6091.

DATED this 19 day of August, 2021