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Ed Hannaman, Esq.
Ass'n Regulation Unit
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Department of Community Affairs
PO Box 805
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Re: Lake Parsippany Property Owner's Association, Inc.

Dear Mr. Fahy and Mr. Hannaman:

This office, along with Ms. Renee Steingarten, Esq., of New Jersey Appleseed Public Interest Law Center ("NJALC") serves as counsel to certain homeowners who reside at Lake Parsippany in the Township of Parsippany- Troy Hills. The purpose of this communication is to serve as a brief reply to Ms. Eileen Born's opposition to those owners' Complaint. The owners have organized themselves as an unincorporated membership group known as Lake Parsippany Voting Rights Group.

First and foremost, my office did indeed serve as counsel to a class of individuals who were in opposition to the assessment imposed by the Lake Parsippany Property Owner's Association, Inc. (the "LPPOA") upon all homeowners (Purzycki, et als. v. Lake Parsippany Property Owner's Association, Docket No. C-2-17). The basis for our objection was that the neighborhood scheme had been effectively abolished due to LPPOA's conduct which deviated, for a series of decades, from the Master Deed(s). The objectors argued that Lake Parsippany could no longer be considered a planned real estate development capable of imposing any sort of assessment against the homeowners (because of such significant deviations), and membership in the LPPOA must remain voluntary, as had historically been the case.

The Honorable Stuart A Minkowitz, PJ.Ch. rejected this argument holding that there was no intent to abolish the neighborhood scheme and therefore Lake Parsippany was in fact considered a common-interest community. **This was the sole issue before the Court because this was the only issue that was indeed ripe at the time the Complaint was filed.**

Subsequently, this office filed a motion for reconsideration/clarification asking the Court to provide more expansive guidance as to certain ancillary issues, such as voting rights or elections, and whether the LPPOA would be expected to comply with the Planned Real Estate Development Full Disclosure Act (“PREDFDA”). However, the Court opined that it would not delve into such issues that were not plead as part of the Complaint or raised on summary judgment. However, while the Court offered no opinion as to the LPPOA’s administration of its organization, **Judge Minkowitz explicitly stated that the LPPOA is expected to comply with PREDFDA.**

Accordingly, Ms. Born’s assertion that this is a “third bite at the apple” is disingenuous at best. The issue before the Court was whether Lake Parsippany was a planned real estate development. There were no ripened issues concerning voting rights because the only issue at that time was whether Lake Parsippany was a planned real estate development at all. The Court determined that Lake Parsippany is a planned real estate development capable of assessing homeowners and even went a step further, articulating, as explicitly as possible, that the expectation is that the LPPOA must comply with PREDFDA. While the Court asserted that a two tier assessment scheme demonstrated, strictly from a financial perspective, that the LPPOA was attempting to impose an assessment in the fairest manner possible, the Court also articulated that the LPPOA must comply with PREDFDA which unequivocally provides all homeowner’s with voting and election rights so long as they are in good standing. If the homeowners pay any tier, then they are in good standing (certainly they are not in “bad standing”), and they must be permitted to vote and partake in elections pursuant to PREDFDA.

In sum, the LPPOA cannot accept monies from homeowner’s and force those same paying homeowners to waive their voting and election rights. These homeowners are not members in bad standing! *Only* members in bad standing may be deprived of participation rights. Anything to the contrary serves as a clear regulatory violation and is a practice that cannot occur in the face of PREDFDA.

In accord with this understanding of PREDFDA, the Lake Parsippany Voting Rights Group hereby supplements its initial complaint with DCA to capture recent actions taken by the LPPOA that requires DCA’s intervention:

On July 6, 2020, the LPPOA sent out a document setting forth the rules and regulations that would govern the upcoming annual meeting and election for all officers and directors. That document, attached hereto makes clear that nomination petitions will only be accepted for owners who hold “full membership” (i.e., “Full membership good standing status of each nominee must be confirmed to be included in the ballot). The Bylaws of the LPPOA further

restrict good standing for nomination purposes to mean good standing for “12 calendar months prior to the election.” Chapter VI, Art. 6, 10 and 11. This provision, inserted during the pendency of the litigation noted above, effectively bars any owner who started paying membership dues as a result of the Court’s October 2019 Order from serving on the Board. In contrast to this inordinately lengthy “residency requirement”, an owner who is in good standing for 30 days prior to an election is entitled to vote. *Id.*, Art. 2. We assert that the 12-month good standing requirement is an unreasonable limitation and contrary to the statutory right of all owners to nominate themselves to serve on the Board; and in this case, was intended to prevent court-ordered members from serving on the first Board elected by all owners regardless of how long they have lived in the community.

Subsequent to sending out the rules and regulations, the LLPOA announced the names of owners from whom they received nomination petitions at its July 13, 2020 Board meeting. (Nominations had to be received by July 11, 2020). It is our understanding that such names were to be sent to the Election Committee to determine if such owners were qualified (i.e., had full membership good standing for 12 months prior to the election). It was further announced at this meeting that the Board was appointing several owners to fill several “Director” vacancies that had existed for many years in each of the 4 geographical election districts. In accord with the Bylaws, district Directors serve for 3 years (whereas other trustees serve 2-year terms), and can be appointed by the Board “until their successor is installed.” Chapter VII, Art. 2. It is the contention of the Lake Parsippany Voting Rights Group that persons appointed to a vacancy should serve until their successor is elected at the next annual election. To interpret the Bylaw otherwise would violate PREDFDA’s mandate that the Board of the LPPOA must be elected by all property owners; not by appointment.

As a result, we are requesting DCA to expedite processing our Complaint, and direct, as soon as possible, the LPPOA to (1) permit all owners who by deed are required to pay an assessment to support the property held by the LPPOA (to be shared and enjoyed by all owners) to vote and nominate themselves to serve on the Board if they have paid that assessment at least 30 days prior to the annual election; (2) hold an election for all Director positions that the Board just filled on July 13, 2020; and (3) not disqualify an owner who did not pay the assessment prior to the Court order or an owner that allegedly owes an \$100 late fee for failing to pay an \$115 assessment on time.

Thank you for your immediate attention to our clients’ election complaint.

Very truly yours,

/s/ Brian M. Rader, Esquire

Brian M. Rader, Esquire

Renée Steinhagen, Esq.
New Jersey Appleseed
Co-counsel for LPVRG