



October 7, 2020

Via Electronic and Regular Mail

RULE 1-4:8 NOTICE AND DEMAND NOT TO FILE LIENS

RE: Cranberry Lake Community Club vs. X,Y,Z, et al.

Eileen McCarthy Born
Dolan and Dolan
One Legal Lane
at 53 Spring St.
Newton, New Jersey 07860-0106

Mary Seage, President
Cranberry Lake Community Club
Route 206, Byram Township
P.O. Box 360
Andover, New Jersey 07821

Dear Ms. Born and Ms. Seage:

I am writing to you in response to a communication, Ms. Seage sent out to Cranberry Lake Community Club (“CLCC”) members, on behalf of the Board of Governors, on October 2, 2020. It set forth an alleged basis for continuing to pursue compulsory CLCC membership in anticipation of the Governor signing S-908 wGR/A-2480. As you know, the Governor signed S-908 wGR/A-2480 yesterday clarifying that election amendments to the Planned Real Estate Development and Full Disclosure Act (PREDFDA), N.J.S.A. 45:22A-45.1, adopted in 2017, “did not impose new responsibilities [on homeowners] to pay assessments and other charges” to a planned common interest association, as defined by the statute. As I have previously written to you, in a letter dated March 2, 2020, New Jersey Appleseed and Homeowners at Cranberry State Lake United (who we represent) do not believe that the CLCC is a common interest association subject to PREDFDA or that there is any basis in any property owners’ deeds or law to impose a fair share assessment on such owners to support property, which the CLCC holds for the benefit of and enjoyment of its members only.

New Jersey Appleseed
Public Interest Law Center of New Jersey
50 Park Place, Suite 1025
Newark, New Jersey 07102

Phone: 973.735.0523 Fax: 973-710-4653
Email: renee@njappleseed.org
Website: www.njappleseed.org

The newly adopted provision reads:

An association in communities established prior to . . . PREDFDA . . . shall not be permitted to require property owners to pay assessments and other charges where the property owner's title record does not impose such obligation, unless otherwise provided by law.

This provision makes clear that unless a property owners' title record imposes an obligation to pay an assessment to the association, or a court has found justification to impose a fair share assessment on such property owner (typically based on an easement right to use property held by the association), an association established prior to 1977, may not impose a new assessment or membership fee on property owners living within its vicinity. The issue of whether an association is a planned common interest association subject to PREDFDA's election requirements was not addressed in this bill and remains a separate question that must be addressed before requiring a property owner to become a member of the association.

In her communication to CLCC members, Ms. Seage has taken the position that a sales restriction, requiring a property owner to sell their property only to a CLCC member (and appearing in only some property owner's title record) constitutes the basis for compelling membership in the Club. As you know, such allegation had no merit prior to the enactment of S-908 wGR/A-2480, and certainly has no merit since. Regardless of whether this sales restriction is enforceable -- which we adamantly believe it is not -- such provision does not grant a property owner any right to use CLCC property, nor does it render the Club to be, or support the CLCC's proposition that the Club is, a planned common interest association. The CLCC has always been and continues to be primarily a recreational, social club; not a property owners' association. Although we believe that in the past the CLCC sought to restrict who could purchase property at Cranberry Lake, there is scant evidence that since the 1970s the CLCC sought to enforce such restriction even informally. Notwithstanding, it should be noted that such restriction does not grant the seller or purchaser membership in the CLCC by virtue of simply buying property in the area, and the restriction expires three years after the CLCC dissolves. As we stated in our previous letter, no developer of a planned common interest association contemplates the dissolution of the very association, which is established to hold and maintain common property to be enjoyed by all future property owners. This sales restriction is certainly not the type of provision in a property owner's title record that can support either an assessment nor membership in the CLCC.

As you also know, S-908 wGR/A-2480 specifically provides for attorneys' fees in the event that an association, such as the CLCC, records a lien against a property owner for non-payment that is based solely on the misinterpretation that Chapter 106 imposed a new responsibility on property owners to pay an assessment or membership fee. Given that the Governor signed S-908 wGR/A-2480 into law yesterday, and in 1990, a complaint brought by the CLCC against hundreds of property owners residing at Cranberry Lake seeking to impose a fair share assessment on those owners was dismissed with prejudice, I am hereby notifying you that if you record a lien against any property owner, who has not voluntarily become a member of the Club, for nonpayment of membership fees, I will not only seek attorneys' fees as

authorized by the statute, I will seek sanctions against you and the individual members of the Board of Governors who decide to proceed with recording such liens.

Thank-you for your anticipated consideration of our position. If you have any questions, do not hesitate to contact me at 973-735-0523.

Respectfully,

NEW JERSEY APPLESEED PUBLIC
INTEREST LAW CENTER



Renée Steinhagen, Exec. Dir.

ss:// Renée Steinhagen
Renée Steinhagen, Esq.

Cc: Homeowners at Cranberry
. State Lake United