

GF0A

COVENANTS

The following is a copy of the Glenwood Forest Owners Association covenants attached to each deed and is the basis for the Association. Changes imposed by the Court Order of November 14, 2007, are noted by a "strikethrough".

This deed is subject to the following covenants, conditions and restrictions which shall be deemed and taken as covenants running with the land and binding on the GRANTEE herein, his/her family, friends, guests, visitors, heirs and assigns:

- 1) All sanitary and waste disposal facilities shall comply with the regulations of West Virginia and Berkeley County Department of Health or their successors. Sanitary pit privies and individual water wells are prohibited and shall not be constructed or installed. Individual water wells for any use whatsoever are not permitted to be constructed or utilized on the property conveyed by this deed.
- 2) This tract or tracts shall be limited to the use of one single residential dwelling.
- 3) No animals or birds other than household pets shall be kept on any tract.
- 4) No tract shall be used as a dumping ground for refuse; all trash and other waste shall be kept in approved sanitary containers. No trash, garbage or other litter shall be burned on this property conveyed herein.
- 5) Clotheslines shall be permitted but shall be located at the rear of each tract.
- 6) No unsightly, unattractive or dilapidated building, fence, structure, trailer or camper shall be permitted to be erected or placed on the tract or tracts conveyed by this deed. Prior to the construction or placing of any building, structure, or trailer on the aforesaid tract or tracts, the GRANTEE, his heirs or assigns shall obtain an Approval permit from the GRANTOR, its successors or assigns, in writing. All structures under construction must be completed on the outside within 180 days from the time construction is started.
- 7) Residential house trailers and mobile homes shall not be permitted to be erected or placed, either temporarily or permanently on the tract or tracts conveyed.
- 8) No structure shall be erected on any tract within twenty-five (25) feet of the front line of the tract or within ten (10) feet from the side; or fifteen (15) feet of the back line of an adjoining owner or street.
- 9) All household pets shall be confined to the owner's tract or tracts and shall be walked on a leash.
- 10) No tract or tracts shall be subdivided unless approved in writing by the GRANTOR.
- 11) No discharge of firearms shall be permitted on any tract or tracts except in areas designated by the GRANTOR.
- 12) No "For Sale" or "For Rent" or other signs shall be erected on the tract or tracts without approval of the GRANTOR.
- 13) No derelict, junked or abandoned motor vehicle shall be parked on any lot. All vehicles parked on any lot shall be validly and currently licensed by a State or Province and with all wheels on the ground, except for emergencies.
- 14) No lot or lots shall be used for any commercial purpose, whether for profit or not unless permission is granted in writing by the GRANTOR, its successors or assigns.
- 15) Each lot owner, its successors or assigns, shall maintain its property in its natural state as far as

possible and shall not cut or remove trees except for construction of buildings, walkways and driveways.

16) The GRANTOR, its successors and assigns, reserves the right to control, regulate and supervise the public reserved areas adjacent to the lot or lots conveyed herein, including streets, parks and other areas. GRANTEE shall abide by all motor vehicle regulations and shall be responsible for the conduct of its guests and invitees.

17) Mini-bikes, motor scooters, mopeds, small or large motorcycles, snowmobiles, beach-buggies and similar type vehicles shall be operated and used only in areas designated by the GRANTOR, its successor or assigns.

18) Each lot owner shall become a member of the Glenwood Forest Property Owners Association and shall be entitled to vote at all meetings of the association and cast one vote of each lot owned. ~~All GRANTEES under this deed shall pay to the Glenwood Forest Property Owners Association an annual road and park maintenance fee in the amount of Forty eight Dollars, (\$48.00), per lot. This sum shall not be increased by more than Two Dollars, (\$2.00) per year. The annual payment date shall be determined by the association. Any unpaid maintenance fee shall become and constitute a lien on each lot, however, said lien shall be subordinate to the lien of any mortgage or mortgages now or hereafter placed upon the property subject to obligation. [The removed portion of this provision is replaced by Paragraphs A1 and A3 of the Court Order.]~~

~~19) These restrictions, covenants, easements, agreements, and conditions are to run with and bind the land and shall inure to the benefit of the owner or owners of any land included in said subdivision, its, his, her or their respective heirs, administrators, executors, successors, and assigns. [This provision is replaced by Paragraph A4 of the Court Order.]~~

20) If the party hereto, its successors and assigns, or its grantees, their heirs, administrators, executors, successors and assigns, shall violate or attempt to violate any of the restrictions, covenants, easements, agreements and conditions herein set forth, it shall be lawful for any other person or persons, including corporations and similar entities, owning any lot or lots in said subdivision to prosecute by any proceeding at law or in equity the person or persons, including corporations and similar entities, violating or attempting to violate any restriction, covenant, easement, agreement, and conditions herein set forth, and either to prevent it, him, her or them from so doing or to recover damages for such violation.

21) All restrictions, covenants, easements, agreements, and conditions herein contained shall be construed together, but if it shall be held that any restriction, covenant, easement, agreement and condition, or any part thereof, be invalid or unenforceable, no liability of any nature shall thereby accrue against Berkeley Development Corporation, its successors or assigns, and no other restriction, covenant, easement, agreement, and condition, or any part thereof, shall be thereby affected or impaired.

22) If and when metered water usage for the thirty-five acre section in which this lot or lots is included exceeds an annual average of 1300 gallons per day, then the GRANTEES, its successors or assigns, shall be subject and liable for an assessment for the construction cost of a sewer collection system, pro rata in relation to the street frontage and also the pro rate cost of a sewage treatment facility. Said assessment shall be made by the , its successors or assigns.

~~23) The above covenants shall run with the land and shall terminate in (35) years from the date of this deed. [This provision is replaced by Paragraph A4 of the Court Order.]~~

[Paragraph A2 of the Court Order regards use of funds and is a new addition to these covenants.]

M. Scales

IN THE CIRCUIT COURT OF BERKELEY COUNTY, WEST VIRGINIA

**GLENWOOD FOREST OWNER'S
ASSOCIATION, INC., a West Virginia
corporation,**

Plaintiff

v.

Civil Action No. 06-C-68
Judge David H. Sanders

**BERKELEY DEVELOPMENT
CORPORATION, a West Virginia
corporation, WILLIAM DODD
and SANDRA DODD, ROBERT
MELLOR and FAUL RETHFORD,
and all those other persons and parties
similarly situate,**

Defendants.

AGREED ORDER

BERKELEY COUNTY
CLERK
2007 NOV 14 PM 4:28
WEST VIRGINIA SIDE, CLEVELAND

THIS MATTER came before the Court on this 1st day of October, 2007, upon the appearance of the parties and their respective legal counsel and upon the agreement reached between them.

In consideration of said agreement it is hereby, by the Court, **ADJUDGED** and

ORDERED as follows:

A. The Covenants of Glenwood Forest Subdivision are hereby amended as follows:

1. The annual dues shall be a lien upon the Lots which may be imposed by filing a notice of lien in the Office of the Clerk of the County Commission of Berkeley County, West Virginia. If the annual dues are not paid when due, there shall be a service charge of one and one-half percent (1 ½) per month for each month the annual dues are not paid, plus the costs of filing and recording the notice of lien, in addition to any attorney's fees and costs incurred by the Association to collect the delinquent and/or to enforce the notice of lien whether suit is filed or not. The notice of lien for annual dues shall be expressly subordinate to mortgages and deeds of trust.

2. The Association is authorized to utilize the funds collected from the dues and assessments, as aforesaid, for all purposes authorized under West Virginia Code §36B-1-1, et seq.
3. For the purposes of these covenants and restrictions and the limitations under §36B-1-203(2) and the adjustment of dollar amounts under §36B-1-114 of the Code, 1994 shall be the base year for the Consumer Price Index to adjust the \$300.00 annual assessment limitation of §36B-1-203 of the Code; provided, however, the increases in the maximum annual assessment of the dues for each Lot shall be phased-in as follows:
 - a. for the fiscal year beginning May 1, 2008, through April 30, 2009, the maximum annual assessment per Lot, exclusive of option user fees and any insurance premiums paid by the Association, may not exceed three hundred dollars (\$300.00);
 - b. for the next succeeding fiscal year ending April 30, 2010 such limitation amount may not exceed 110% of \$300.00 or \$330.00; the next succeeding fiscal year, such limitation amount may not exceed 110% of the prior year, and so on until the limitation amount attains \$300.00 amount as increased by the consumer price index, 1994 as the base year at which time, the \$300.00 adjusted by the consumer price index with 1994 as the base year at which time, the \$300.00 adjusted by the consumer price index with 1994 as the base year shall become the limitation under §36B-1-203 and §36B-1-114 of the Code.

4. The Declaration of Covenants and Restrictions for each lot as previously recorded shall run with the land; and shall be perpetual unless amended by the recommendation of the Board of Directors, with the approval of such recommendation by a vote of sixty-seven percent (67%) of the Lot Owners.

B. Except to the extent expressly modified and amended by this Order, said covenants for each lot as originally recorded shall remain unchanged and in full force and effect until such time as they may be modified in accord with the provisions of this Order.

C. The Court awards reasonable attorney fees and expenses to both parties to be paid by the Association, and the parties have submitted their voucher.

Accordingly it is **ORDERED** that legal fees and expenses to Plaintiff's counsel are approved by the Court in the amount of \$ 4,141.⁶⁶. The Defendants are awarded reimbursement of their legal fees and their expenses from the Plaintiff association in the amount of \$ 14,000.⁰⁰. In consideration of the Plaintiff's request that the Court provide a schedule of payments by which the Defendants' shall be reimbursed their approved legal fees and expenses, the Court **ORDERS** that the Plaintiff pay the Defendants' approved legal fees @ \$500.⁰⁰ per month, each and every month until paid in full. DAF

The Clerk shall enter the foregoing as and for the day and date first hereinabove written and shall forward an attested copy of this Order to Braun A. Hamstead, Esquire, Hamstead & Associates, L.C., 1802 W. King Street, Martinsburg, WV 25401 and Michael L. Scales, Esquire, 314 West John Street, P.O. Box 6097, Martinsburg, WV, 25402.

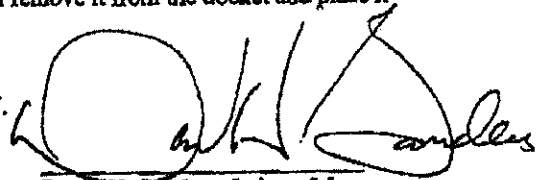
And it appearing to the Court that West Virginia Code Section §36B-2-17 requires, in pertinent part, that an amendment to a Declaration "...must be indexed in the grantee's index in the name of the common interest community and the association and in the grantor's index in the name of the parties executing the amendment" the Court deems that the owners of all lots in Glenwood Forest constitute the parties executing the amendment for purposes of recordation and indexing of the amendment.

Therefore, it is further **ORDERED** that the Plaintiff shall cause an attested copy of this Order to be recorded in the Office of the Clerk of the County Commission of Berkeley County and shall cause the same to be indexed in said Clerk's Office in accord with the above Code provision.

It appearing to the Court that in a class action suit, notice is required to be given to the class if a compromise is made pursuant to WVRCP Rule 23(e), it is ORDERED that Plaintiff shall mail a copy of this Order to its members at their addresses on the Plaintiff's mailing list with the mailing of the next regularly scheduled newsletter which shall constitute notice of the compromise of the civil action.

And it appearing that there is nothing more to be done herein, this case is ORDERED DISMISSED WITH PREJUDICE, and the Clerk shall remove it from the docket and place it among causes ended.

ENTER this 14th day of November, 2007.




David H. Sanders, Judge of the Circuit Court of Berkeley County, West Virginia

Approved by:

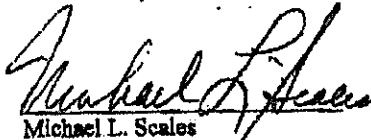


Braum A. Hamstead
Hamstead and Associates, L.C.
P.O. Box 730
Charles Town, WV 25414
Counsel for Defendants
WV State Bar No. 1568

A TRUE COPY
ATTEST

Virginia M. Sine
Clerk Circuit Court
By: 
Deputy Clerk

Submitted by:



Michael L. Scales
314 West John Street
P.O. Box 6097
Martinsburg, WV 25401
Counsel for Plaintiff
WV State Bar No. 3277