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12 May 2023

Dear Members of Blackburne Creek Homeowners' Association

Please find enclosed a Memorandum titled "Frequently Asked Questions" from our legal counsel, Duncan Craig LLP. This document was prepared in response to a number of recurring questions and requests made by members over the past few years and we hope it will provide you with clarification on aspects of the Restrictive Covenant and its validity.

It has been brought to our attention that a group of members have formed a committee to challenge the Restrictive Covenant. While this group has every right to pursue this on their own, the Board will not be taking part in this activity. Our legal advisement has cautioned us that it is not the Board's duty to change the Restrictive Covenant and it would be a costly endeavor to attempt amending it for the following reasons:

- A unanimous resolution would be needed
- If not unanimous, a supermajority will be required to bring the application to the courts with legal representation
  - Any opposition to the application could create a significant obstacle (and more legal fees) as the Court has already confirmed the enforceability of the Restrictive Covenant in its current state
  - It would be a long and costly process with no guarantee of the Judge accepting the application

Therefore, as fiduciaries of the Homeowners' Association, supporting the pursuit to change the Restrictive Covenant to allow alternate roofing materials is a costly and time consuming process that should not be burdened upon our members through significant increases in your annual fees. Additionally, it is the Board's legal responsibility to support those members that want to keep the Restrictive Covenant as it is currently.

On the matter of enforcement of the Restrictive Covenant (one of our founding duties), we will continue to follow up with the fences in disrepair from last season and will be starting to assess the landscaping requirement regarding trees this summer. Please make sure your property is meeting the standards shown in Schedule "C" of the Restrictive Covenant.

On behalf of the Board of Directors,

*Nathan Maslanko*

Nathan Maslanko  
President  
Blackburne Creek Homeowners' Association

