

THE MEADOWS AT TIMBERHILL OWNER'S ASSOCIATION

Resolution Regarding Landscape Maintenance

AUTHORITY: ORS 94.630	Powers of the Association
Bylaws Article XIV	Rules and Regulations
CC&R Section 3.4	Powers of the Association
CC&R Section 3.8	Adopting Rules and Regulations

BACKGROUND:

1. The Board of Directors of The Meadows at Timberhill Owner's Association adopted the following Resolution on April 5, 2002, in a document titled: "Written Consent of Directors" (last paragraph, page 2, titled "Declaration"):
"RESOLVED, that the Association as having the duty to maintain the alley landscaping and public landscape plantings as per section 7.21 of the Declaration⁽¹⁾ shall indemnify K&F Homes LLC for any and claim⁽²⁾ against their three year maintenance performance bond which is based on the failure to maintain the above landscaping. The Association shall also pay any costs or attorney fees K&F Homes LLC incurs because of the Associations⁽³⁾ failure to maintain said landscaping."
 - (1) Assume referenced "Declaration" means Declaration of Covenants, Conditions and Restrictions for The Meadows at Timberhill
 - (2) sic - assumed to mean "any and all claims"
 - (3) sic - assumed to mean "Association's", since there is only one Association
2. The Board which adopted the resolution in #1 above was composed entirely of members representing the builder prior to turnover of Association to homeowners.
3. The purpose of a "landscape maintenance bond" is to ensure the builder provides viable landscape product and systems to homeowners and their Association.
4. The homeowners and the current Board of Directors acknowledge their individual and collective responsibility for proper care of landscaping in the community.
5. The current Board of Directors, the first composed of homeowners, believes the Resolution referenced above (#1) was created in the builder's self-interest. The builder was acting as both the builder and the Owner's Association simultaneously. The effect of this action was to indemnify itself against claims from the class of legitimate successors who had justifiable expectations of protection from a maintenance bond. Since the builder is responsible for a 3-year landscape maintenance bond to protect the homeowners, this action represents a conflict of interest by attempting to remove the builder from any liability for future problems detected which in fact may be attributable to the builder.

RESOLUTION:

The current Board of Directors of The Meadows at Timberhill Owner's Association, the first composed of homeowners, adopts the following resolution at the August 2, 2004, Board meeting:

1. The provision cited above ("Declaration" on page 2 of Written Consent of Directors dated April 5, 2002) is hereby rescinded.
2. The Board of Directors of The Meadows at Timberhill Owner's Association will take responsibility for landscape deficiencies specifically caused by their failure to perform required maintenance.
3. The Board of Directors of The Meadows at Timberhill Owner's Association will not assume responsibility and will not indemnify K&F Homes LLC for landscape deficiencies which are a result of K&F's failure to perform required actions. Examples of such failure include but certainly are not limited to:
 - a. Deficiencies which existed at the time of turnover of the Owner's Association from the builder to the homeowners (February 18, 2004).
 - b. Deficiencies caused by improper preparation of soil and terrain.
 - c. Deficiencies caused by planting defective or inappropriate trees or shrubs for the location.
 - d. Deficiencies caused by incorrect, incomplete, inoperative, or defective irrigation systems.
 - e. Deficiencies caused by insufficient notification to homeowners of their responsibilities and insufficient training of homeowners by builder to allow homeowners to assume their defined responsibilities.
 - f. Other deficiencies that, during the period of the bond, would normally be assigned to the landscape maintenance bond for payment.

Adopted 8/2/04 David Stubbs, President; Tamina Toray, Secretary; Jensen Lee, Treasurer