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March 12, 2008

**VIA EMAIL ONLY:**

Hatteras by the Sea Homeowners Association  
c/o Tom McGarrity  
Post Office Box 611  
Hatteras Village, NC 27943

**Re: *Amendment to Restrictive Covenants for Hatteras by the Sea***

Dear Tom:

In response to your March 10, 2008 email, a couple of comments:

1. The procedure set out in the general statutes for imposing fines certainly is a reasonable one, and adopting it is a good way to insure that the procedure will not be subject to legal challenge in the future. However, this is not, by any means, the exclusive method that can be adopted for imposing fines. If there are changes the association would like to consider, we can certainly analyze those methods (for enforceability).
2. The outline in your email provides that fines will **always** be assessed at the rate of \$100 a day. That amount could be considered excessive, depending on the nature of the particular violation. By contrast, the statute provides for the imposition of a fine in an amount "not to exceed" \$100 per day. I would certainly consider following the statute on that point (to give the reviewing panel the opportunity to impose a "reasonable" fine, after taking into consideration the nature of the specific violation).
3. The statute provides that fines will not be assessed until after 5 days from the rendering of the decision. This is to afford property owners **not** only "due process", but an "opportunity to cure". In my opinion, those are both reasonable and necessary safeguards which should be incorporated into any fine procedure.

Hatteras by the Sea Homeowners Association  
c/o Tom McGarrity  
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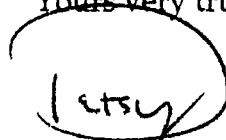
4. To facilitate the enforcement of the fine, the statute authorizes any assessment to be secured by a lien on the owner's real property. In my opinion, that provision adds more "teeth" to the fine process, and is an additional protection I believe the association would want included.

The foregoing are some points that, in my opinion, should also be considered in introducing the concept of a fine system. You want to make sure that not only are owner's "due process" rights protected, but that the association is afforded all reasonable means to enforce the collection of any imposed fines.

I hope this is helpful. If you have any questions or would like to discuss the matter further, please do not hesitate to contact me.

With best personal regards, I am

Yours very truly,

A handwritten signature in black ink, appearing to read "Betsy", enclosed within a hand-drawn oval.

Betsy Butler

BB/ct

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February 7, 2008

**VIA U.S.P.S.:**

Hatteras by the Sea Homeowners Association  
c/o Nick Stevens  
Post Office Box 611  
Hatteras Village, NC 27943

*Re: Amendment to Restrictive Covenants*

Dear Nick:

I am enclosing, as you requested, a complete copy of the North Carolina Planned Community Act. The Act is divided into three articles. I have copied and marked the provisions of each article separately, for your convenience in reviewing the statute. As you can see, Article 1 contains general provisions. Article 2 deals with the creation, alteration and termination of planned communities. Article 3 deals with the management of planned communities.

N.C.G.S.A. Section 47F-1-102 deals with the applicability of the act. Subparagraph (d) authorizes any planned community created prior to January 1, 1999 to elect to make the provisions of this act applicable to it by appropriately amending its declaration. The procedure for making this election reads as follows:

The amendment may be made by affirmative vote or written agreement signed by lot owners of lots to which at least sixty seven percent (67%) of the votes in the association are allocated or any smaller majority the declaration specifies. To the extent the procedures and requirements for amendment in the declaration conflict with the provisions of this subsection, this subsection shall control with respect to any amendment to provide that this Chapter applies to that planned community.

Hatteras by the Sea Homeowners Association  
c/o Nick Stevens  
February 7, 2008  
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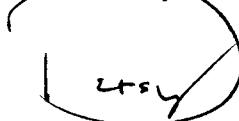
The Restrictive Covenants for Hatteras by the Sea provide (in Article VIII, Section 4) that the Declaration may be amended during the first thirty years by an instrument signed by not less than ninety percent (90%) of the owners. Since the statute overrides the percentage required under the restrictions, the amendment may be made by the written consent signed by lot owners of lots to at which at least sixty seven percent (67%) of the votes in the association are allocated.

I would estimate that my firm's fee to assist the association in amending the Restriction Covenants would be in the neighborhood of \$1,000. Of course, this is only an estimate. The exact cost would depend upon the actual time incurred by me and my staff. The cost to record the Amendment would be dependant upon the number of pages. I would estimate the document itself would be five to six pages. Additional pages would be added for the written consent of the requisite owners. The Register of Deeds office charges \$14 for the first page and \$3 for each subsequent page.

Please let me know if I can be of any further assistance to the association at this time.

With best personal regards, I am

~~Yours very truly,~~



Betsy Butler

BB/ct  
Enclosures