

PCT.

ARCHITECTURAL CONTROL COMMITTEE

Bley-Was Heights and First Addition to Bley-Was Heights Subdivision
P.O. Box 483 Bly, Oregon 97622
(541) 353-2564

June 15, 1998

NOTICE TO LOT OWNERS

98 JUN 25 P 2:44

As Members of the Architectural Control Committee (ACC) we are charged with representing you in enforcing the Declaration of Covenants, Conditions, and Restrictions (CCRs). We also feel responsible to keep you informed if there are things we encounter that might affect the value of your property. Recently we have encountered some serious problems that affect our community. In view of this, we will provide a statement of the problem, a brief history of events leading up to the problem, and what we are doing to bring resolution to the problem:

1. STATEMENT OF THE PROBLEM:

"Older used house trailers" (some from the pre 1976 era) are being placed on lots within the Bley-Was Heights and First Addition to Bley-Was Heights Subdivision (BHS) in violation of the CCRs.

2. HISTORY OF EVENTS

On September 1, 1982 DAWORTH bought all the unsold lots (104) in the Bley-Was Heights Subdivision (BHS) from Weyerhaeuser. Daworth thereby became a "Majority" owner having the unilateral right to change or amend the CCRs.

In Article IV, Section 2, of the CCRs, it states the CCRs will continue as written "unless an instrument in writing signed by the then owners of two-thirds of the lots has been recorded, agreeing to change said covenants, conditions, and restrictions, in whole or in part."

There are 126 lots in BHS - with 4 not having voting privileges. Two-thirds of 122 means that it requires at least 81 votes to achieve the "majority" specified by the CCRs to make a change or an Amendment.

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Daworth, being a "Majority" owner also had the unilateral authority to appoint individuals to the ACC.

In Article III, Section 2, of the CCRs, it states: "At any time a then record owner of a majority of the lots shall have the power, through a duly recorded written instrument, to change the membership of the Committee," and "In the event of the death or resignation of any of the member of the Committee, the remaining members shall have full authority to designate a successor."

Having a "Majority" position, in 1987 and 1988 Daworth made 2 Amendments each year to the CCRs.

1987 Amendment #1, recorded on November 5, 1987, the ACC was changed from six (6) persons to three (3) - naming Sam Davis, Billy Hogue, and Clyde Severson. The content of the CCRs remained unchanged.

1987 Amendment #2, also recorded on November 5, 1987 basically changed Article II:

Section 5 said mobile homes are only permitted on lots in Block 5 and Block 6 and on transitional lots 1 thru 6 in Block 2.

Section 6 to say mobile homes were permitted for seasonal use for not more than 180 consecutive days.

This action did not change other parts of the CCR's

1988 Amendment #1 replaced Clyde Severson with Sidney Ainsworth on the ACC. This action did not change the CCRs.

*1988 Amendment #2 made a clarification of Article II Section 6:
"Notwithstanding, nothing herein shall be deemed a prohibition against the seasonal use of a recreational vehicle for limited residential purposes, provided that such use in no manner conflicts with or is in violation of existing ordinances, law, or other governmental regulation."*

According to Aspen Title Company Records, as of October 15, 1988, Daworth still owned 104 lots - a 2/3 majority.

The next Amendment came in 1995. It was signed by Billy Hogue (of Daworth Group Inc.) and Glen Rode. It stated: "We do hereby give consent to the placement of mobile homes on any lot in these subdivisions." Glen Rode signed it on February 3, 1995, Billy Hogue on February 27, 1995 and it was recorded by Aspen Title Company on February 28, 1995.

Unfortunately, Daworth Group and Glen Rode (although claiming in the Amendment to be the majority holders of lots in Bley-Was Heights and First Addition to Bley-Was Heights) did not own at least 81 lots - the number required to achieve the two-thirds majority necessary to change or amend the CCRs.

Although on October 15, 1988 Daworth owned 104 lots, Daworth sold 23 lots to Clyde Severson on December 2, 1994. On February 2, 1995, they sold 69 lots to Glen Rode.

*Since Glen Rode and Daworth were the only two persons who signed the Amendment (and Glen Rode had 69 lots), it meant that Daworth had to own at least 12 lots to have 81 lots to make the Amendment legal. A review of the records at Aspen Title reveals Daworth did not own 12 lots at the time they signed the amendment. Daworth had already sold most of the other 12 lots in 1989 thru 1993 - thus making the 1995 Amendment **NULL AND VOID**.*

In 1996 Amendment #1 Ray West (who purchased the 69 lots from Glen Rode on April 23, 1996) recorded an amendment giving permission for certain lots to be exempt from the building sizes contained in the CCRs and to have to comply only with the zoning requirements of Klamath County.

*Unfortunately, Ray West did not own at least 81 lots at the time he recorded the amendment - thus making that amendment **NULL AND VOID**.*

1997 Amendment #1 Sam B. Davis, Sidney Ainsworth, and Billy Hogue, did appoint Curt Allen, Leda Hunter, and John Richmond, to be their replacements on the ACC - which did not change the CCRs.

Recently, Golden Eagle applied to Klamath County for a "Conditional Use Permit" (CUP) to allow them to bring in older used mobile homes. This CUP was granted over the strong objection of the owners of other lots in the BHS. Golden Eagle then began placing these older mobile homes on lots without gaining the approval of the ACC - and in direct violation of the CCRs.

3. WHAT WE ARE DOING TO BRING RESOLUTION TO THE PROBLEM:

1. On May 21, 1998, a notice was sent by the ACC to Golden Eagle Investments, LLC. requiring they remove immediately all structures placed in violation of the CCRs or the ACC will proceed immediately to enforce removal by action at law.

2. We, the members of the ACC, will record this NOTICE as 1998 Amendment #1 so as to make certain future buyers of lots and builders of homes are aware of these matters - since the ACC does not intend to recognize the validity of the 1995 and 1996 Amendments recorded by Daworth Group and Ray West.

3. So that lot owners are appraised of the policy of the ACC, We:

A. **will approve** homes being built or placed on lots that meet the current Federal, Oregon, and Klamath County building codes, and all the provisions contained in the Declaration of Covenants, Conditions & Restrictions of Bley-Was Heights and First Addition to Bley-Was Heights Subdivision. This includes double wide manufactured housing that meet the current Oregon building codes that apply to manufactured housing (ORS 446.115) and that have an "Insignia of Compliance" from the Federal Department of Housing and Urban Development (HUD) as prescribed in 24CFR3282.362(C2i).

B. **will not approve** placement of older mobile homes, manufactured homes that have metal siding or roofs, or single wides, on any lots except those designated in the CCR's as being lots on which mobile homes may be placed. This will assure we protect current and future home owners as to "harmony of exterior design and location in relation to surrounding structures and topography" - as is our duty as stated in the CCR's.

End of this Amendment.

Very Truly Yours,

The Architectural Control Committee:

By: Curt Allen
Curt Allen, Member

By: Leda Hunter
Leda Hunter, Member

By: John Richmond
John Richmond, Member

Copies Mailed:

All Present "Lot Owners" at the last recorded address posted at the Klamath County Assessors Office.

State of Oregon, County of Klamath, Signed or attested before me on June 18, 1998 by Curt Allen, Leda Hunter, and John Richmond.



Janet C. Campbell
JANET C. CAMPBELL

Notary Public for the State of Oregon
My commission expires July 16, 1999

1998 ACC Amendment #1 to CCR's

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STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of _____ the _____ 25th day
of _____ June ; _____ A.D., 19 98 at 2:44 o'clock _____ P. M., and duly recorded in Vol. _____
of _____ Deeds _____ on Page 22252

FEE \$25.00

By: Bernetha G. Letsch
Bernetha G. Letsch, County Clerk