

Sharla Dillon

From: Pat Perry [popperry@verizon.net]
Sent: Wednesday, November 13, 2013 3:59 PM
To: Sharla Dillon
Cc: Mark Troutman; HWALKER@babco.com; Charlena.Aumiller@ag.tn.gov
Subject: Request for Public Comments to Chairman James M. Allison
Attachments: ECF_DOC_417_1877771.pdf

Importance: High

Dear MS Sharla Dillon,

Would you please send this to Chairman James M. Allison and post this email on TRA Docket 13-00017. I will send hard copies within 3 days.

Dear James M. Allison,

I am Patrick Perry, a lot owner and Board Secretary of the Villages at Norris Lake Community Association, Inc. I am respectfully requesting to be heard through Public Comments and further request my letter to the consumer advocate (attached) be filed in TRA Docket 13-00017.

I understand that a hearing on this docket will be held November 25, 2013 at 10:00 AM. With your permission, I shall be in attendance to speak on behalf of more than 300 lot owners at the Villages at Norris Lake in Campbell County, TN. Please let me know if I may attend the hearing to speak, any documentation you may require, the time limit for my comments and the limit on the number of lot owners I may invite to speak.

Respectfully,
Pat Perry

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----- Original Message -----

From: Pat Perry
To: Charlena.Aumiller@ag.tn.gov
Sent: Friday, November 08, 2013 2:47 PM
Subject: Request to Consumer Advocate re: TRA Docket 1300017

Charlena Aumiller
Asst Attorney General
State of Tennessee
Charlena.Aumiller@ag.tn.gov

Letter to Consumer Advocate

Dear Charlena Aumiller,

I am Patrick Perry, a lot owner and Board Secretary of the Villages at Norris Lake Community Association, Inc. I have been following the most recent TRA Docket 1300017 along with many of our lot owner association members at the Villages of Norris Lake.

Since 2009 our owners' efforts to recover our community from bankruptcy have been continually delayed because of this sewage system dispute costing us millions of dollars in lost property values and no ability to secure home building financing. I met with Charles Hyatt, CEO of TWSI on July 22nd to make sure I understood where TWSI and Emerson

stood on this issue. While I have urged patience with our owners over the last 5 years to let the system work, it became apparent at our July 27th annual meeting that it is time for our owners to be heard. So, with input from them I have prepared this request for the TRA Board's consideration in this matter.

Please acknowledge receipt of this email and let me know if I should copy it to other recipients involved with TRA Docket 1300017.

Request:

On behalf of the 340 lot owners and members of the Villages at Norris Lake Community Association, Inc. (VNLCA) we are requesting that the Tennessee Regulatory Authority (TRA) conclude all necessary actions as soon as possible to enable Caryville Jacksboro Utilities to provide the sewage service requirements of the Villages at Norris Lake in Campbell County, TN.

Background:

Land Resource, LLC (LRC) began selling lots in the development at the Villages of Norris Lake (VNL) in August 2005. By June 2008 they had sold 344 lots to owners across the US for more than \$35M. Buyers were told that LRC would be investing the proceeds from land sales in construction of amenities and infrastructure to finish the community by December 2010 according to the February 2008 Property Report issued to all owners by LRC.

In September 2008, LRC communicated on its website that the company was seeking to restructure its financing through its banking partners. In October 2008 LRC filed for chapter 11 bankruptcy in the US Bankruptcy Court in Orlando, FL. By then the VNL lot owners organized a 10 owner Volunteer Committee (VC) to gather information and formulate options to save the community. The VC developed priorities to:

- 1- Find a new developer to take over VNL for completion
- 2- Get the county to call the bonds and finish the infrastructure
- 3- Find a marina developer to complete a 600+ slip marina
- 4- Take over the Community Association from LRC and staff it with owners.

The VC interviewed 4 developers and decided to support the efforts of Emerson Properties in their purchase of the remaining unsold lots at VNL. Emerson Properties LLC bought the remaining property and assets of the Debtor LRC through US Bankruptcy Court auction on February 11, 2009.

Because of the LRC bankruptcy, 344 lot owners lost \$2.4M in promised amenities. And because the infrastructure (roads, water, sewer and electric) was less than 15% completed our \$35M in property values declined to less than \$7M.

In late 2008 the Campbell County Planning Commission (CCPC) called the bonds held by Bond Safeguard Insurance Co. (BS) to finish the infrastructure. BS refused to pay on the bonds citing pre-bankruptcy litigation filed against LRC. Members of our VC employed in the insurance industry found that BS was likely to fail having carried bonds for so many failed developers during the financial crisis.

The CCPC allowed Emerson to negotiate a settlement with BS which was completed in April 2009 and Emerson discovered that LRC had underfunded the bonds by more than \$3M based on the original 538 lots planned. Due to very steep terrain it was determined that reducing the development to 403 lots was the only financially viable means of completing the development. Emerson also found that the original site planned by LRC for the waste water treatment plant (WWTP) would not meet soil specification requirements and had to be replanned to accommodate the reduction of 135 lots. Because 73 of these 135 lots had already been purchased by owners, Emerson offered them an even swap to another of Emerson's purchased lots in order to protect the investments of owners and the banks that held their mortgages. The CCPC and all 73 owners agreed to the lot swap program and 80% of them have been completed with a few pending bank approval for change of mortgage collateral.

Summary:

In December 2008 I and two other lot owners were selected by LRC to take over the VNL Community Association Board, Inc. from LRC executive management. I was contacted by the Department of Justice to join the Unsecured Creditors Committee for the LRC Bankruptcy case in Orlando, FL. I remained on this committee through Chapter 11 until it was dismissed when the case went to Chapter 7 liquidation. I had access to LRC financial records and creditor claims.

In April 2009 Emerson held a Grand Re-Opening event for VNL owners and invited suppliers and contractors. Owners were advised that Emerson was told by Mike Hines (affiliated with TWSI see document attached) that he required a payment of \$100,000 before any work would be done on the sewer system by TWSI. This was supposedly for equipment which should belong to Emerson with the purchase of LRC bankruptcy assets. I checked LRC financial bankruptcy court records and found no unpaid accounts payables or unsecured creditor claims filed by Utility Capacity Corp. (UCC) or

Tennessee Wastewater Systems, Inc (TWSI). If UCC or TWSI had unpaid invoices for \$100,000 they should have filed a unsecured claim to the bankruptcy court rather than demanding that Emerson or anyone else to pay them. Members of our VC told Emerson to find another sewage services provider.

In April 2009 Emerson began construction to complete the infrastructure and to date have spent more than \$6M on the project which is now 85% completed lacking only a short segment of road and the wastewater treatment plant.

Emerson offered to pay LaFollette Utilities for sewage services and they declined twice due to lack of capacity in the east side of the county. Emerson was then free to select a another utility with a good reputation in the County. Caryville Jacksboro Utilities (CJU) accepted the task and planning began on a new high technology system that will result in a cost savings of more than 60% from the original LRC plan. Tennessee Wastewater Systems, Inc (TWSI) began a program of challenging the issuance of the permit granted by TRA/TDEC to CJU for the Villages. This intervention by TWSI has delayed the completion of the VNL recovery by more than three years at a cost of millions of dollars in lost property values. We as VNL owners feel our rights to have our choice of sewage services providers has been disenfranchised by these actions.

We VNL owners have worked tens of thousands of hours over 5 years working with Emerson Properties and all of the local bankers, contractors, service providers, city and county government to recover our community. We have continued to pay our association annual dues, taxes and mortgages and we are getting tired of all the delays in finishing the last 15% of our infrastructure. We have 3 completed homes, 3 under construction and 9 waiting to build when the sewer system is operational.

VNL Owners want CJU to be our sewage services provider.

Respectfully,
Pat Perry
Secretary VNLCA, Inc

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