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Trustees Countrylane Woods II  
Eric Ruegg, Chairman  
851 Country Stone  
Manchester, Missouri 63021

Dear Eric,

The Trustees of Countrylane Woods who also serve as the Board of Directors of the Countrylane Woods II Homeowners Association Corporation have asked my legal opinion as to several issues that have been addressed by various residents of your community. For the sake of brevity and clarity, I will address each issue separately and to the extent possible will separate the applicable law. Keep in mind that the subdivision is subject to three separate and distinct governing laws. The first application is found in the indenture documents as amended. This contract between homeowners will serve as your primary outline of the rights and privileges relative to your community. You are also subject to Missouri Corporate law and Missouri not-for-profit provisions of Chapter 355 RSMo.


- 1. Certain common land remains in the name of North County Realty Development and not in the name of the subdivision.** This situation appears to be an oversight by the developer. No legal action is necessary as long as the development company is still in business. Simply have the North County Realty and Development Company execute a deed conveying this property to the Trustees. After this length of time a quit claim deed will suffice. Do not convey the land to the Corporation.
- 2. Is the Indenture amendment valid wherein an election was held and additional signatures are obtained?** The original indenture of 1974 was properly amended in June 2005. The language of the indenture itself governs indenture amendments. In the original document under Article VI, paragraph 7 recorded in Book 6738 on Page 981, the indenture may be amended by a 1/3 written agreement of the lot owners. That threshold was met in the June 2005 amendment and the amendment is properly passed and is now recorded.
- 3. What are the rules for an annual meeting?** The Indenture does not mandate an annual meeting, only meeting for the election of trustees when their term expires. Missouri Corporate law does require an annual budget meeting. The trustees set the agenda if they chose to have a meeting

pursuant to their powers as trustees. The Board of Directors set the agenda if the meeting is called pursuant to the corporate law. If a meeting is called by the special 5% provision of the non-for-profit statute then that agenda will be called if it does not deal with powers that are reserved to the trustees or the Board of Directors.

4. **Which sets of rules take precedence, the indenture or the corporate powers?** The indenture specifically defines the powers of the trustees. They are enumerated in Section II entitled the Trustees duties and powers. No vote at a special or annual meeting can override or change those duties. Additionally, the powers of the Board of Directors are set out in the bylaws. The bylaws may be changed and amended if a quorum is met and the requisite notice is sent and vote totals are received. Missouri follows the Business Judgment rule regarding corporate business decisions. This rules empowers the decision makers (board of directors.) to exercise reasonable judgment to meet changing circumstances. The Court will uphold the Board of Directors decision if they are rationally based.
5. **How many special meetings may be called by obtaining 5% of the member's signature pursuant to the not-for-profit status.** The statute is silent as to frequency of special meetings called pursuant to Chapter 355. Since there is no statutory prohibition, it appears that a special meeting pursuant to chapter 355 may be called when the necessary signatures are obtained. This chapter does not alleviate the necessity for a quorum as mandated by the by-laws, nor does it allow a modification of any power that is retained by the trustees under the indenture.
6. **What is meant by the power of amendment clause of Section V, item 7?** This provision states that the power of amendment shall not apply to areas show as "Common Land" on the various Countrylane Woods II subdivision plats nor to the sections providing for assessment for development and maintenance of common lands. This provision imposes on the trustees the duty to preserve and protect the common land for the lot owners. All property owners have an interest in the common land, thus the common land may not be sold. Additionally, the land may not be abandoned and must be maintained. In order to accommodate this maintenance requirement there needs to be an assessment, which cannot be abrogated. It does not mean that the assessment cannot be changed as that issues is addressed in Article

If the Board has additional questions, please do not hesitate to write or call me with your inquiry.

Very Truly Yours,  
Bruntrager & Billings, P.C.



Charles H. Billings