

SLEEPY HOLLOW LOT OWNERS ASSOCIATION, INC.

**RESOLUTION TO ADOPT INTERPRETATIVE RULE REGARDING CAMPGROUND
DEVELOPMENT SITES**

Statement of Authority and Reason

Under the provisions of West Virginia Code § 36B-3-102 and the restrictive covenants as are set forth of record establishing a uniform scheme of development for Sleepy Hollow subdivision, a common interest community, the Association is vested with authority to enforce the restrictive covenants governing use of the common areas of the subdivision and the unit lots. A copy of the restrictive covenants dated August 20, 1968, and recorded in the Office of the Clerk of the County Commission of Morgan County in Deed Book 751 at page 345 is attached which contains the provisions pertinent to this interpretative rule. Incident to the Association's covenant enforcement responsibilities, the Board of Directors has been met with questions regarding the proper interpretation of the restrictive covenants as they relate to the use of lots for purposes other than for "one residence." Specifically, the Board has been asked whether a lot or combination of lots may be used as a location for multiple individual camping sites or as a campground. The Board has been asked whether paragraph (11) which permits "...the use of temporary camping trailers" on a lot within the subdivision can be appropriately construed so as to permit lots to be used for multiple camping sites and/or multiple campground sites.

Interpretative Rule Prohibiting Campground Development Sites

FOR THE REASONS FOLLOWING, THE BOARD FINDS THAT, UNDER THE RESTRICTIVE COVENANTS, CAMPGROUND DEVELOPMENT SITES MAY NOT BE ESTABLISHED, MAINTAINED OR USED ON A LOT OR COMBINATION OF LOTS WITHIN SLEEPY HOLLOW SUBDIVISION.

Definitions:

"Campground Development Site" refers to a lot or group of lots established, maintained and offered for the location or placement of two or more camping units in which one or more amenities are provided such as water, electric or sewer hookups.

"Camping Unit" means and includes, but is not limited to, tents, tent campers, fold down campers, pop up campers, travel trailers, camping vans, motor homes, pick up coach campers, or any other unit built or mounted on a vehicle or chassis and capable of being self-propelled or towed.

Basis For Interpretative Rule

"The fundamental rule in construing covenants and restrictive agreements is that the intention of the parties governs. That intention is gathered from the entire instrument by which the restriction is created, the surrounding circumstances and the objects which the covenant is designed to accomplish." *Foster v. Orchard Dev. Co.* (a recent case arising from Berkeley County W. Va., the 23rd Judicial Circuit in which Morgan County is also located).

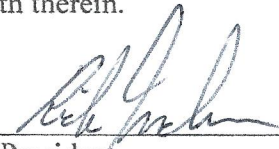
Sleepy Hollow was clearly established with the intent that it be a residential community with lots improved only by permanent dwellings. That is made clear in paragraph (4) of the attached covenants which permits only permanent structures, paragraph (5) which permits only one "residence" per lot and paragraph (6) which only permits residential use of a lot. A residence is commonly defined as the place where one lives, his/her dwelling. A dwelling is commonly defined (as stated in *Wallace v. St Clair*) as a permanent place of abode. Sleepy Hollow was clearly developed to be free from commercial like activities. Although the developer reserved the right to develop one lot for commercial purposes, even that did not occur.

Additional "surrounding circumstances" that are relevant to the developers' intent include the fact that the developer constructed a lake and walking easement for use and benefit of "all lot owners" in paragraphs (14) and (16). These amenities are preserved for the private use of the lot owners as opposed to the public.

The covenants are replete with provisions intended to establish and preserve the exclusive private residential character of Sleepy Hollow free from activity that would disrupt or interfere with its private residential character. In addition to the above paragraphs, examples are also found in paragraph (5) prohibiting the use of any lot to access property outside the subdivision; the requirement that outbuildings appurtenant to a dwelling must conform in appearance to the dwelling found in paragraph (6); the prohibition against signs or advertising of any nature in paragraph (7); the establishment of set-back limits for the dwellings to be located on the lots in paragraph (8); the requirement that health department regulations be complied with for septic tanks that would serve the individual lot dwelling units in paragraph (9); the prohibition against further development or subdivision of lots for any use found in paragraph (10); the prohibition against trailers and mobile homes in paragraph (11); and the prohibition against trucks and unsightly abandoned vehicles on the lots in paragraph (12).

The Board recognizes the intent of the restrictive covenants to permit a lot owner to place a camping trailer temporarily on his or her lot. This exception was included in paragraph (11) since all trailers of any kind and type were otherwise prohibited under it. However, this exception cannot be properly read to permit the development of lots with an infrastructure or amenities designed to accommodate multiple camping units on a single lot or combination of lots. To do so would unquestionably undermine and defeat the clear intention of the restrictive covenants. The objects and purposes of the restrictive covenants was to establish and maintain the one residence per lot private residential dwelling character of the community, free from activity other than single residences on a lot and uses that are directly appurtenant thereto.

Therefore, by vote and acclamation of the Board of Directors of Sleepy Hollow Lot Owners Association on this 10th day of October, 2020, be it so resolved that the foregoing interpretative rule is adopted for the purposes set forth therein.



President