



BEVERLY OAKS

Homeowners Association

July 1, 2009

Mr. Stephen Hillier
121 Brentwood Court
Irving, TX 75061

Dear Steve;

There are always matters where the new board can benefit from the knowledge and perspective of the previous boards. The purpose of this letter is to “fact check” several issues facing the community before moving forward to resolve them.

I am directing this letter to you because you have served as the President of the Association or held a senior board position during most of the years between 1999 – 2008. In these capacities you have had control of Association funds and oversight of major projects and contractors and have been a consistent contributor to the policy and decision making process. You have also worked with all of the incoming and outgoing board members and would best know where to look for things. I am also directing this letter to you because you may have additional insights to add from your experience with the City of Irving Building Standards Commission and from your experience as a licensed real estate agent.

Please review the attached questions and document requests and forward your responses to me by July 10, 2009.

Please trust that we are not questioning anyone's commitment or loyalty or assessing blame with this letter. We are simply attempting to gather all of the pertinent facts and documents in the most expedient way.

We look forward to receiving your response.

Sincerely,

Brenda Madison
Secretary, Board of Directors

1) Is the Beverly Oaks Homeowners Association exempt from paying state sales tax?

The Board is trying to determine if the Association has a large unpaid sale tax liability, the amount of the liability, and the pertinent facts associated with acquiring this liability, as well as any suggestion you may have to resolve it.

Contractors have informed the Board that the Association has purchased products and services as a tax free entity and/or as a reseller and has not paid state sales tax. Receipts confirm this for painting, landscaping, lamp post fixtures, signs and other normally taxable services and items.

Our understanding is that this practice was questioned by Principal Management and several contractors and that you asserted that we had a right to these exemptions.

The IRS does not list the Beverly Oaks Homeowners Association as a non-profit corporation. The State Comptroller does not have the Association listed as sales tax exempt corporation.

2) Has the paint and trim repair program has been administered equally for all home owners?

The Board is trying to determine if some homes received substantially more paint and trim services than others, how much more was spent on these homes, and why this occurred, as well as any suggestions you may have for restoring equality to the program.

Records indicate that you, for the most part, have determined the paint rotation between 1999-2008. In that time, the Association painted some homes twice, some once, and some were not painted at all.

Homes in the Brentwood cul-de-sac were painted in 1987, 1994, 1999, and 2003 and were proposed to be painted again in the 2007 as per the annual meeting agenda. On the other end of the spectrum, some homes on Wilshire Drive haven't been painted by the Association since 1992.

Records show that 28 homes were painted ahead of 68 homes in the rotation at least once, and in many cases, two or three times.

3) Was the Association financially liquid going into 2009?

The Board is trying to determine if the Association was financially liquid at the beginning of 2009 or if past due obligations exceed the cash in the bank. If

the later was true, the Board would like to know the size of the deficit, and if there were extenuating or emergency circumstances that created the shortfall. Additionally, any suggestions you have for reestablishing liquidity would be appreciated.

Records show the Association began 2009 with \$36,000 in the bank – significantly less than the \$68,000 it had at the beginning of 2007.

Records also show the Association began 2009 with more than \$50,000 in past due obligations:

Exterior painting*	\$43,850.00
Unpaid Sales Tax-2008 (estimate)	\$4,000.00
Unpaid Sales Tax-prior years	?
Incomplete Audits 2006, 2007	\$2,200
Property Tax	\$700

* 45 homes were overdue to be painted (nine homes hadn't been painted in 11-17 years, twelve in over 7 years, and twenty-four in over 6 years.) Twenty-five additional homes will pass the 6 year mark next year.

Additionally, the Association's had set aside \$20,000 for emergency and capital repairs in 1999. At the prior annual growth rate, it is estimated that these reserves would be approximately \$60,000 by 2009. Because of the past due obligations, the Association's affectively has no reserve now.

4) Has the Association been operating with balanced budgets?

The Board is trying to determine if the Association has been financially overcommitted for a number of years, how much the over commitment is, and why it has not been brought to the attention of the owners in a timely way and resolved.

Records show that the owners have been presented with balanced budgets in each of the last nine years. Records also show that there has been deficit spending in 5 of the last nine years and that there was a deficit of \$20,000 for the period 2006 – 2008.

While it is understandable that expenses increased with the hiring of a management company, the expansion of the painting program, the replacement of light fixtures, the changing of the trim color, the landscape improvements, and concrete repairs - it is not clear why these commitments were not approved by the owners in advance or financially reconciled.

A review of the annual contracts and obligations approved for 2009 shows a commitment of \$58,000. The Association collects less than \$50,000 in dues.

The \$58,000 does not include setting aside funds for future infrastructure repairs or any projects.

Landscaping/Irrigation (w/tax)	\$20,000
Painting - (w/tax) (if done on a six year cycle)	\$13,200
Management Company Contract	\$11,000
Insurance, Taxes and Audit	\$7,500
Utilities (water and electric)	\$7,000
Repairs and Small Projects	*
Set Aside for Reserves	+

* Note: Expenses for repairs and minor projects which ran \$24,000 for the last two years - \$10,000 in landscaping projects, \$5,000 in pavement repairs, \$9,000 in misc expenses.

5) Is the Beverly Oaks Homeowners Association responsible for the upkeep of the roadways, high pressure water mains, the sanitary sewer mains, and the storm sewers?

The Board is trying to determine if the Association has a significant future obligation to maintain the roadways and water lines and other infrastructure in the community and how to plan for it.

You have stated on several occasions that the City of Irving is responsible for the management and repair of these systems and that you have contacts in the city government that will confirm this.

This conflicts with what the City of Irving Engineers, the City attorney, and the Code Enforcement Department have told us – specifically that these are obligations of the Association. Estimates to fulfill these obligations over the next 10 years are \$50,000 to \$100,000.

It would be wonderful if the City would maintain these assets, but if it is not their responsibility, and we are not financially prepared, it will be catastrophic for the community.

Do you have definitive information that confirms that the City's is obligated to maintain these assets?

6) What is the new policy for compensating board members and owners for their time?

For most of the history of the Association, board members have not been compensated for their time. Board members have only been reimbursed for out-of-pocket expenses.

Clearly a Board member's time and skills are as valuable as any contractor. At the same time, owners have an expectation of volunteerism and would expect any payments to be disclosed. Disclosure of board member compensation is also required by Auditors.

The check register and receipts show that payments have been made to some board members – in some cases for their time writing letters and others for manual labor.

What are the guidelines for compensating board members? What are the guidelines for compensating owners? What is the requirement for disclosure?

7) Was the Association billed by Principal Management for services that were not requested and/or received?

Prior to employing Principle Management, the administrative costs of the Association for postage, copies, and misc admin expenses were under \$200.00 a year.

These costs were \$9,000.00 for 2007 – 2008; billed out in monthly installments.

The Board is trying to determine if there were significant overcharges by Principal Management in 2007 and 2008 that have not been resolved. If these charges are legitimate – what were they for? If they are not legitimate, what has been done / can be done to recover them?

8) Why was the 2006 audit started but not completed?

Homeowners Associations are legally required to complete annual audits. At Principal Management's recommendation, an audit was initiated in 2007 for the 2006 fiscal year.

The audit was never completed. Additionally, no audit was initiated for 2007 or 2008.

The Board is in the process of trying to complete the audits for 2006, 2007

and 2008, as well as assembling the information required to audit prior years.

Can you provide the information originally requested by the accountant in 2007 for each of the years 2001-2008 (see attached list)?

9) Please provide us with the Association records for 2001-2004

The Board would like you to produce the 2001 – 2004 records.

Association records are archived back to 1986, with the exception of 2001 – 2004.

DeVOLT and COMPANY, P.C.
CERTIFIED PUBLIC ACCOUNTANTS
P.O. BOX 803367
DALLAS, TEXAS 75380-3367
OFFICE: (972) 980-4315
FAX: (972) 702-0174

TO: Principal Management Group
ATTN: Jennifer Kravitz
DATE: 11/08/07
FROM: David DeVolt
RE: Beverly Oaks audit information

NUMBER OF PAGES BEING SENT INCLUDING THIS PAGE: 1

COMMENTS:

Hi Jennifer,

We are trying to finish up the 2006 audit for Beverly Oaks and need the following:

- OK
11/14/07
E
with
open
checked
initial*
- ✓ There are apparently a board controlled checking account, money market account and two certificates of deposit. We need to get the bank statements and paid invoices for these accounts.
 - ✓ Insurance policies in effect at 12/31/06
 - ✓ Board meeting minutes for 2006 and 2007
 - ✓ Listing of the board of directors with names, addresses and positions
 - ✓ Any contracts in effect for 2006. (PMG, etc.)
 - ~ Were there any individuals that owned more than 10% of the units in the association?
 - ~ Did any owner work for the association during 2006?
 - ~ Are you aware of any fraud?
 - ~ Was there any litigation in 2006?

I'm sorry that the list is so long. We really need to get the vendor invoices and other information for the board controlled accounts, otherwise we can't really issue an opinion.

Sincerely,
David DeVolt

DeVult & Company, P.C.
AUDIT FOR THE YEAR ENDED

DOCUMENTS REQUIRED

- | | | |
|------|--|-------------|
| (1) | Bylaws, CC & R's, Articles of Incorporation, Declaration | _____ |
| (2) | Prior Federal Income Tax Return | _____ |
| (3) | Prior Audit or Financial Statements | _____ |
| (4) | Service Contracts | _____X_____ |
| (5) | Minutes of Meetings | _____X_____ |
| (6) | Listing of Directors – With Addresses | _____X_____ |
| (7) | Budget and Reserve Analysis | _____X_____ |
| (8) | Current Financial Statements or Trial Balance | _____X_____ |
| (9) | Bank Statements for All Year + 1 Month After Year End | _____X_____ |
| (10) | Accounts Receivable Listing at Year End | _____X_____ |
| (11) | Accounts Payable Listing at Year End (if any) | _____X_____ |
| (12) | Insurance Policies at Year End | _____X_____ |
| (13) | Copies of Dues Checks Received (if kept) | _____X_____ |
| (14) | Paid Bills for Year & 1-2 Months After Year End | _____X_____ |
| (15) | General Ledgers for the Year (Year-to-Date preferred) | _____X_____ |
| (16) | Bank Reconciliations at Year End | _____X_____ |
| (17) | Copies of Any Notes for Money Borrowed (if any) | _____X_____ |

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Mr. Stephen Hillier
121 Brentwood Ct
FROING TX 75061

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
Stephen Hillier Addressee

B. Received by (Printed Name) Date of Delivery
Stephen Hillier 2-30

D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

3. Service Type

- Certified Mail Express Mail
- Registered Return Receipt for Merchandise
- Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

2. Article Number (Transfer from service label) 7008 3230 0000 3011 6079

PS Form 3811, February 2004

Domestic Return Receipt

Stephen Hillier
121 Brentwood Ct.
Irving, Texas 75061

October 29, 2009

Received
November 7, 2009

Brenda Madison
Secretary, Beverly Oaks HOA
120 Wilshire Court
Irving, Texas 75061

Dear Brenda:

Please provide me with the following information:

Provide proof of ownership of property within Beverly Oaks by the following Board Members:

1. Robert Bauer
2. Brenda Madison
3. Randy Ranew
4. Kristen Mallory
5. Rodney Lehman

A copy of the Irving City or School District 2010 tax statement will provide proof of ownership.

Also, I am requesting the list to whom emails were sent the "State of the Association". Time is of the essence in getting this material, therefore, must be received before November 3, 2009. Since this is public information I am sure you will not have trouble forwarding it to me. Thanks for your promptness.

Sincerely,



Stephen Hillier
Home Owner Beverly Oaks

CC: Joe Putnam, Atty., 1425 W. Pioneer Dr. Suite 114, Irving, Texas 75061



BEVERLY OAKS

Homeowners Association

Steve Hillier
121 Brentwood Court
Irving, TX 75061

November 9, 2009

via email PDF and certified mail

Dear Steve;

If you have information that would challenge anything that has been published in the "State of the Association" (October 1, 2009), we are very interested to examine it. Please let us know as soon as possible. It is important to all of us that the "State of the Association" be accurate.

Even though it is very late in the process, we will publish and bring to the attention of the owners, any changes that are warranted. This process started, as you know, with my formal request for this type of feedback from you back in July. You did not respond. It would have been helpful to all of us to supply the information back then. Nonetheless, we will work with what you give us now.

Additionally, if you have information you want published, we will do that. You can also publish to the website via the blog.

Steve, we all wish that we did not have to deal with these awkward issues at the end of a productive year, but the board has a fiduciary obligation to disclose issues such as the nonpayment of taxes, irregularities in the paint rotation, incomplete audits, etc. We did our very best to do this in a professional manner and to be discrete and respectful to those involved.

Now that we are past the disclosure, we all believe that it is in everyone's best interest to focus on solutions and on the future and that is the board's recommendation. However, if there is a desire by anyone to dig further into the documents and events and make additional disclosures, we will accommodate. These records are also available for inspection by any owner.

To address the specific requests in your recent letter:

1. To determine the owner of record as they appear in the tax roles for each board member, go to www.dallascad.org. The source is most accurate. We have attached a list of relevant addresses for each board member to this letter.
2. The "State of the Association" was sent to all owners of record as of October 1, 2009. The names and addresses of the owners are in the public domain, as you stated in your letter.
3. And, following precedence set by past boards, owner information such as phone numbers, email address, bank account numbers, copies of cancelled checks, etc. are not disclosed to the members at large.

Sincerely,

Brenda Madison
Secretary, Board of Directors

Attachment A

President

Robert Bauer
1620 Brentwood Drive, Irving, Texas
1915 Wilshire Lane, Irving, Texas
1614 Brentwood Drive, Irving, Texas
122 Wilshire Ct, Irving, Texas
1603 Brentwood Drive, Irving, Texas
1605 Brentwood Drive, Irving, Texas

Treasurer

Kristin Mallory
1504 Brentwood Drive, Irving, Texas

Secretary

Brenda Madison
120 Wilshire Ct, Irving, Texas

Officer

Rodney Lehman
2013 Wilshire Lane, Irving, Texas

Vice President

Randy Ranew
1607 Brentwood Drive, Irving, Texas

Attachment B

From the Association Bylaws

ARTICLE VI: "OFFICERS"

Paragraph 1: **Designation** The officers of the Association shall be a President, a Vice President, a Secretary, and a Treasurer, all of whom shall be elected by the Board of Directors, and such assistant officers as the Board of Directors shall from time to time, elect. Such officers need not be members of the Board of Directors, but each shall be either an Owner of a Lot or Living Unit or, if the Owner is a firm, partnership, corporation, association or other legal entity, the authorized representative of such entity, or the Developer or his representative(s). The office of President and Treasurer may be held by the same person, and the office of Vice President and Secretary or Assistant Secretary may be held by the same person.

Date: Mon, 9 Nov 2009 19:59:01 -0800
From: shillier2005@yahoo.com
Subject: Re: names Requested email 2 of 2
To: brendamadison@live.com

Thanks for the somewhat reply. You didn't include the emails of those you sent the libelous information to in the "State of the Association". Bauer has the opportunity to remove the slander aimed at me on the website before the meeting on Thursday and to post the truth about the painting and previous Boards.

Steve Hillier
Totco Group / Keller Williams Realty
214.460.9191 cell

From: Brenda Madison <brendamadison@live.com>
Subject: **RE: names Requested email 2 of 2**
Date: November 10, 2009 9:29:46 AM CST
To: Stephen Hillier <shillier2005@yahoo.com>
Cc: board@beverly-oaks.org

E-mail addresses are private information and we agreed not to disclose them (that was the only way some people would agree to provide them to us). You may a post on the web site which can be seen by everyone.

I have requested your input and correction of any facts that were in error both casual and officially (in a certified letter) prior to the State of the Association being prepared. As was stated in my response to your letter, provide me with facts and I will be glad to see the information is corrected. The information for the State of the Association was prepared from information we had, checks, invoices etc. If you have additional information we would love to have it.