



Robert D. Campbell (1906-2000)

# Campbell, Dille, Barnett & Smith, P.L.L.C.

Attorneys at Law

317 SOUTH MERIDIAN | P.O. BOX 488 | PUYALLUP WASHINGTON 98371-0164

**TELEPHONE:** (253) 848-3513

**FAX:** (253) 845-4941

**SENDER'S E-MAIL:** [bryced@cdb-law.com](mailto:bryced@cdb-law.com)

**WEBSITE:** [www.cdb-law.com](http://www.cdb-law.com)

## ATTORNEYS

ROBERT D. CAMPBELL (1906-2000)

HOLLIS H. BARNETT, P.S.\*

STEPHEN A. BURNHAM

BRYCE H. DILLE, P.S.

JOHN M. FORSYTHE

HILLARY A. HOLMES

SHANNON R. JONES

DANIEL W. SMITH

JEREMY M. SWANN

SHERRY L. TALTON\*

\* OF COUNSEL

## ESCROW DEPARTMENT

SUSAN BOAT, LPO

December 22, 2015

*Via e-mail and regular mail*

Board of Directors  
Grand Firs Homeowners Association  
c/o Lorne Martin  
Post Office Box 731029  
Puyallup, WA 98373

**Re: Grand Firs Homeowners Association  
Dues Increase**

Dear Board:

I have been requested to express my legal opinion as to the validity of the Board of Directors action in raising the annual assessment from \$350.00 to \$465.00 by putting that increase in the budget but without specific membership approval of the increase.

In expressing this opinion, I have reviewed Section 6.1 of the CC&Rs together with the amendments to the CC&Rs, Articles of Incorporation, and By-Laws.

In expressing this opinion, the Class B membership had ceased to exist; however, based on prior Declarant action in accordance with Section 6.3, the annual maximum assessment was set at \$350.00 per year. Section 6.3 states that amount may not be "materially increased" without an affirmative vote of two-thirds of the members voting in person or by proxy at a meeting called for that purpose.

A material increase is defined as an increase in the annual assessment by more than ten percent. Therefore in order to have a dues increase by more than ten percent there must be a meeting called for that purpose which could either be at the annual meeting or at a special meeting however specific notice of the dues increase must be given to the members regardless of whether it is at an annual or special meeting. However the Board of Directors could increase the dues up to ten percent without an affirmative vote of the members and that could be incorporated in the annual budget which is presented to the members at the annual meeting. However a mere incorporation of a dues increase in the budget and then approval of the budget would not satisfy that requirement unless it was pointed out in the notice of the meeting that the budget did include an increase in the dues by more than ten percent. In any event, even if the dues increase was incorporated in the budget without specific reference to it, said budget would have to be approved by 66-2/3 percent of those attending in person or by proxy, assuming there was a quorum present at the meeting. From the information submitted it is not clear as to whether the budget

which included the dues increase was approved by 66-2/3 percent of the members in attendance by person or by proxy at the meeting in 2014.

In reviewing the budget that was submitted, it does not appear that the budget specifically shows or refers to a dues increase but merely has a gross figure of dues collected. Therefore I don't think that this is sufficient notice to the members that a dues increase was included in the budget.

There is certainly no problem in having a dues increase that requires member approval and approval of the budget at the same meeting; however, I believe the dues increase must be brought to the specific attention of the membership.

The Board did have the authority without membership approval to increase the dues from \$350.00 to \$385.00 per year (\$35.00 per year is ten percent of \$350.00). However, any amount in excess to that should not have been collected and it would appear the best way to handle this is rather than issue refunds, simply to give a credit to the members who, in fact, have paid the full dues equal to the excess assessment. As to lot owners who have paid the additional assessment, but no longer own the property, I don't believe it is necessary to issue them a refund unless requested. The owners who purchased that lot should not be given a credit since they did not pay the extra assessment.

Therefore the dues assessed in February of 2014 was for regular dues and was not for a special assessment and, therefore, the amount collected above \$385.00 per year should be credited against those lot owners who actually paid the excess assessment. This could be phased in over a one or two year period.

In conclusion, my opinion is that the maximum annual assessment pursuant to Section 6.3 had been established at \$350.00 per lot and could only be increased without member approval to \$385.00 per lot. Any increase in that amount in the future would require an affirmative vote of two-thirds of the Class A members, voting in person or by proxy at a meeting, either special or general as long as the meeting notice specifies that a dues increase is going to be voted on as part of the approval of the annual budget.

Therefore at this time the maximum annual assessment is \$350.00 per year per lot plus up to ten percent (10%) or \$35.00 that was approved by the Board and was part of the 2014 budget. The excess amount was subject to membership approval which did not occur. Therefore, the maximum annual assessment at this time is \$385.00 per lot per year which can be increased up to ten percent (10%) by the Board of Directors approval alone, but any additional amount must be submitted to the members for approval as set forth in Section 6.3.

If you have any further questions, comments or concerns, please advise. I remain . . .

Very truly yours,

**CAMPBELL, DILLE, BARNETT  
& SMITH, P.L.L.C.**

Bryce H. Dille

BHD/vh

I:\DATA\BHD\MHIGGINS 13382\Grand Firs .253\Dues Increase .390\cBoard 122215.doc