

600 Quarrier Street  
Charleston, West Virginia 25301

101 South Queen Street  
Martinsburg, West Virginia 25401

501 Avery Street  
Parkersburg, West Virginia 26101



7000 Hampton Center  
Morgantown, West Virginia 26505  
(304) 285-2500

[www.bowlesrice.com](http://www.bowlesrice.com)

Southpointe Town Center  
1800 Main Street, Suite 200  
Canonsburg, Pennsylvania 15317

1217 Chapline Street  
Wheeling, West Virginia 26003

480 West Jubal Early Drive, Suite 130  
Winchester, Virginia 22601

April 28, 2017

Steven Prunty  
Telephone — (304) 285-2505  
Facsimile — (304) 285-2530

E-Mail Address:  
[sprunty@bowlesrice.com](mailto:sprunty@bowlesrice.com)

Lee Snyder, President  
Oak Meadow, L.L.C.  
270 Industrial Blvd  
Kearneysville, WV 25430

**E-MAIL**

Re: Keyes Ferry Maintenance Association

Dear Sir:

Keyes Ferry Acres was developed by Howard Speaks between 1964 and 1973 to contain 750 Lots in 34 Phases. The 34 Phases included various private roads and greenspace parcels privately dedicated by Mr. Speaks for the use, benefit and enjoyment of the 750 Lots. Regrettably, the documents creating the Subdivision do not contemplate a mechanism for the owners of the 750 Lots to maintain and regulate the roads and greenspace they collectively share. Not surprisingly, Mr. Speaks was unable to sell a significant number of the lots and after almost 4 decades he had no exit strategy to turn the roads and greenspace over to the Lot Owners.

In June of 2000, Oak Meadow, L.L.C., purchased all of Mr. Speaks' remaining land in the Subdivision. As a result, it became the owner of a large number of Lots and it acquired legal title to the roads and greenspace dedicated to the Lot Owners. Because Oak Meadow was uniquely situated among Lot purchasers to the extent that its greater investment in the community justified attempting a resolution to the Keyes Ferry situation, Oak Meadow approached Bowles Rice for assistance. After a limited review of the deeds and plats we concluded that the Subdivision was created by simple common law dedication, and pursuant to the common law of the State every Lot shares an easement for roads and greenspace, along with the benefit, control, cost and right to use the same. We identified two (2) critical components missing from the Subdivision: a) a means for the Lot Owners to manage that which they collectively own; and b) a transfer of legal title to the roads and greenspace so that the same don't appear to be private property of Mr. Speaks or Oak Meadow, L.L.C.

The Keyes Ferry Acres situation is not atypical with regard to the manner in which many developments were created during the first half of the 20<sup>th</sup> century. As a result, in the 1980s and 1990s the West Virginia Legislature enacted two statutes to address subdivision development. One is the West Virginia Uniform Common Interest Ownership Act (WV Code 36B) and the other is the County Commission Maintenance Association Act (WV Code 12A). WV Code 36B applies

Lee Snyder, President  
April 28, 2017  
Page 2

retroactively to developments created by documents that contemplate a road and greenspace maintenance structure and WV Code 12A applies to development that do not.

The Maintenance Association Act permits the County Commission to create a maintenance association if petitioned to do so persons owning 60% of the properties on both sides of an orphan or subdivision road. The Act requires that those persons propose a document establishing a mechanism for the Maintenance Association to conduct the business of maintaining and owning the shared roads and greenspace, voting rights among the property owners, a fee structure and a mechanism for enforcement. The statute expressly requires that voting rights be on a per-property basis with the apparent intent that all properties be equal (and thereby all owners be equal).

At the request of Oak Meadow, L.L.C., and generally following common law of the state already applicable to the Subdivision, we proposed that Keyes Ferry Maintenance Association, Inc. be formed as a non-stock, non-profit corporation. Because each property has an equal easement to use the roads and greenspace shown on the plats by private dedication, we propose that the corporation be democratically organized on that pre-existing basis with each property allocated an equal share of voting rights, benefits and costs of the entity formed to maintain the roads and greenspace. We likewise identified certain inherent risks to the entire Subdivision is the roads and greenspace appear to be privately owned (e.g. tax sales, development, disputes over use, maintenance, ownership and control) and that the best way to avoid the same was for the non-profit entity to take, keep, hold and safeguard in behalf of its members, legal title to the roads and greenspace. This structure is, for good cause, required by WV Code 36B and common place in modern real estate development. Oak Meadow, L.L.C. has acknowledged the existing common law structure, the easements burdening the roads and greenspace conveyed to it, and reality of the situation and agreed to convey those roads and greenspace to the Association – because it is the right thing to do.

For the foregoing reasons, and with the ultimate objective of both resolving the existing problems in Keyes Ferry Acres and also permitting the Subdivision to in the future to be and become the development the Lot Owners desire, we prepared a Petition to the County Commission of Jefferson County, Articles of Incorporation and Bylaws for the Association, and a Declaration whereby the entire structure can be implemented by the Jefferson County Commission documented in the Jefferson County public land records. These instruments are intended to resolve the current structure where the Owners of 750 Lots (conceivably 1500 individuals) must collectively agree and cooperate to maintain that which they both own and need, with an entity existing under the laws of the State in which they may be direct democracy own, protect, preserve, maintain, repair, replace and improve those things which have been neglected, minimally maintained, not insured in their behalf, and unable to evolve to meet modern needs and desires of the current owners. Per Oak Meadows' instructions, they were drafted in the manner I would want if I were a resident of the Subdivision and they pertain exclusively to the matters of defining the Lots and Common Areas, maintenance, improvement and insuring the Common Areas in behalf of the Lots, and regulating the use and improvement of the Common Areas in accordance with the

Lee Snyder, President  
April 28, 2017  
Page 3

desires of the majority of people entitled who currently have an ownership interest in them. Please note that the documents do not regulate the use or improvement of the Lots or impose covenants or restrictions regulating those Lots.

Very truly yours,

Steven Prunty

smp  
Enclosures