

L'Esprit Tract Owner,

A minimum of 75% acreage approval is required to amend L'Esprit's Master Declaration of Easements, Covenants & Restrictions. It last was amended about 30 years ago. Fast forward to now when **0 out of 4,200 acres were voted to approve the following instrument to amend the Declaration.**

*A new section 7.02 of Article 7 (Enforcement of Covenants) shall be added to the Declaration as follows. Section 7.02, as currently worded in its entirety, shall be renumbered as Section 7.03.*

*7.02 Fine Policy: The Board of Directors of the Association may, without prior notice to or the approval of members of the Association, enact a monetary fine policy to enforce violations of these covenants. The designated violations, fine amounts, lien enforcement for nonpayment, timetable and any due process in said fine policy shall be solely determined by the Board of Directors and may be changed at any time by the Board of Directors without prior notice to or the approval of members of the Association.*

Forty years after the Declaration was promulgated, **five volunteer LPOA board members devised a 'fine policy'**. Their unprecedented step was taken without any express authority in the Declaration. L'Esprit's 170<sup>+/-</sup> tract owners were collectively excluded from debating and deciding on the appropriateness of these monetary penalties and corresponding liens.

This is why a concerned neighbor recently proposed the instrument to amend. If approved by 75% voting acreage, it likely would have legitimized the board's action. But again, 0 out of 4,200 acres were voted to approve. This obviously included all acres owned by these five board members who, for whatever reason, apparently didn't want their own process being codified into the Declaration.

**This board's cited authority (KRS 381.785-.801) for their 'fine policy' is invalid.** The statutory definition of a 'planned community' clearly doesn't apply to L'Esprit. Ours is a mixed-use residential/business development, not just a "group of residential dwellings" that are "intended for use and occupancy by a single household and not for business purposes".

Residency in L'Esprit isn't required. In fact, **PVA records confirm that less than one-half of all tracts are zoned as residential.** There are equine, agricultural, education, church, guest lodging and other businesses throughout the development.

Nine months ago, an independent law firm succinctly documented the 'planned community' disconnect (see Q8 in attachment). This legal memorandum was widely disseminated, including to all board members and their board attorney. As a former LPOA president and someone with 25 years of non-profit association executive management experience, I respectfully ask **why didn't this board initially secure, adopt and distribute a signed legal opinion that supported their cited authority?**

Related, the board has yet to produce a signed legal opinion regarding the **'prescriptive easement' fiasco for which tract owners were threatened under the board's 'fine policy'** for not allowing recreational horseback riding on non-easement private property. A lawsuit was filed against LPOA, and the court order is available on [www.ourspiritcommunity.com](http://www.ourspiritcommunity.com). The attached legal memorandum also thoroughly addresses this important personal property rights matter.

Here are 10 questions for which LPOA members (L'Esprit tract owners) deserve answers.

- (1) Why did five volunteers unilaterally devise a first-ever 'fine policy'?
- (2) Why didn't any tract owner approve an amendment proposing the same 'fine' process?
- (3) For what reason did this board fail to secure two signed legal opinions?
- (4) What is LPOA's possible exposure if the board's 'fine policy' is litigated?
- (5) Have LPOA's annualized insurance premiums just increased 40x compared to 2023?
- (6) Is LPOA's management liability insurance policy retention amount now at \$100,000?
- (7) Were LPOA's operating expenses double what was budgeted for Jan-Sept 2024?
- (8) Did LPOA have only \$63,000 in cash on 9/30/24 to cover months of future expenses?
- (9) During Jan-Sept 2024, did LPOA average \$10,000/month in total expenses?
- (10) Were professional fees (primarily legal) 85% of Jan-Sept 2024 operating expenses?

Kindest regards,

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