

The Settlement on Wilmington

Website is www.thesettlement-ga.com

An update from the President's desk.....

I want to thank the other members of the board, and the members of the architectural committee for all of their help and cooperation. I have been involved with boards of other homeowner and condo associations, and this has to be the smoothest running, and best board I have been involved with. Each person is willing to express their opinion, have it discussed, then come to a consensus that all will support regardless of whether it was their idea or not. This is truly the sign of people that are dedicated to the best interests of the neighborhood, and I appreciate them more than I can express.

A special thanks goes to David Brown for the wonderful job he does on our website, to Nancy Easterlin as secretary for keeping our very important minutes and putting together our newsletter, to Curt Bryant for staying on top of our landscaping maintenance, to Libby Gillins as treasurer and as our liaison with county officials to see that laws are enforced, and to Roni Libow as Architectural Review Committee chairperson for her efforts in processing requests and helping to keep our neighborhood one of the best on Wilmington Island. A debt of gratitude is owed to each of these people.

We have also received input from other members through our website. Regardless of the nature of the input, it is appreciated and welcomed by the board. This is how we try to represent everyone's interest. We strongly encourage you to let us know your thoughts and concerns.

Covenants are created and filed with properties to protect the value of a community and to keep it as was originally intended by the developer. A homeowners' association is created to maintain common area, enforce those covenants, and help everyone to understand and comply with them. When a homeowner is in violation of the covenants, the board has a legal obligation to take whatever action may be deemed appropriate and necessary to bring that homeowner into compliance. In the vast majority of cases, the homeowner is cooperative. It is usually just a case of not realizing that they were not following the rules, which are designed for everyone's benefit. However, we have had an ongoing and blatant violation that has been addressed in the past, but never resolved. This particular homeowner has been extremely and openly resistant to complying with our covenants with the results being to the detriment of every other homeowner in The Settlement. Because they are located near the entrance, the hazard created by this violation is even more evident and damaging. Property values are reduced because of these obvious violations. Their business activity creates an annoyance and nuisance to every homeowner in The Settlement.

Here are pertinent excerpts from the applicable covenants:

Paragraph II (Uses prohibited and permitted)

Section 2.1 – “Said property shall not be used, nor shall any portion thereof be used, for any purposes other than single family residence purposes.”

Section 2.8 – “No business of any kind whatsoever shall be erected, maintained, operated, carried on, permitted, or conducted on said property, or any part thereof, and without limiting the generality of the foregoing, no store, market, shop, mercantile establishment, trading

or amusement establishment, quarry, pit, undertaking establishment, crematory, cemetery, radio tower, auto camp, trailer camp or haven, hospital, public bath, school, kindergarten or nursery school, sanitarium beauty shop, barber shop, asylum, or institution, and no noxious, dangerous, or offensive thing, activity, or nuisance shall be erected, maintained, operated, carried on, permitted or conducted on said property, or any part hereof, nor shall anything be done thereon which may be, or become an annoyance or nuisance to the neighborhood. This prohibition also includes single person businesses which are normally permitted under Chatham County zoning laws in areas zoned for exclusive family residential purposes.”

The board believes that this restriction on business operations is very clear. However, we have a homeowner that has been documented by the county to be operating a business from their home. They have a business license listing their home in The Settlement as the address, and they have business phone listings with their home phone and address included as the place of business. As additional evidence, they routinely keep commercial vehicles parked at their home during off hours as part of their business operation. The board, as well as those that have expressed their opinion, believe that this must change. This homeowner needs to come into compliance with the covenants and stop operating their business from their home.

Because of the strong resistance by this homeowner to comply with the covenants, the board has found it necessary to engage legal assistance. The board has retained the services of Weissman, Nowack, Curry, and Wilco, P.C., specialists in this area of law, to assist in the enforcement of the covenants in this case. As you might imagine, legal assistance is expensive. But when considering the potential damage to property values that could easily total in the millions of dollars, the board believes that this should not and cannot be ignored. In addition, in the following excerpt from the covenants, there is a provision for the possible reimbursement of legal fees to be recovered from the offending party:

Paragraph X (Violations.....)

Section 10.2 – “Where an action, suit, or other judicial proceeding is instituted or brought for the enforcement of these covenants, restrictions, reservations, servitudes and easements, the losing party in such litigation shall pay all expenses, including a reasonable attorney’s fee, incurred by the other party in such legal proceeding.”

It is unfortunate that we have a homeowner that is so uncooperative, that we need to retain legal services to enforce our covenants. However, considering the legal obligations of a board of directors for a homeowners’ association that is clearly spelled out in Georgia law, we feel that we really have no choice.

I strongly encourage your input on this matter. So far, everyone who has voiced an opinion (with the exception of the offending homeowner, of course) has been in strong support of this action. However, we would like to hear from you regardless of your opinion. If you are in support of this enforcement action, please let us know. If you are opposed to the enforcement of these covenants, we would like to hear from you as well. The board is trying its best to carry out its responsibilities, but we need to hear from all of the homeowners. (Website is www.thesettlement-ga.com)

Thank you.

Jim Sell
President