

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, WEST VIRGINIA

ELIZABETH LARTZ,
 MARY E. BELL,
 CALVIN H. LAMOTTE, on behalf of themselves and all other
 residents and lot owners in Blue Ridge Acres Subdivision,
 Jefferson County, West Virginia, similarly situated,
 Plaintiffs,

BLUE RIDGE ACRES CIVIC ASSOCIATION, INC.,
 a West Virginia corporation,
 Plaintiff,

vs.

Civil Action No. 85-C-379

BLUE RIDGE ACRES, INC.,
 a Virginia corporation,
 Defendant,

ROGER J. PERRY,
 THOMAS W. STEPTOE, SR.,
 JAMES B. CRAWFORD, III, on behalf of themselves as Trustees
 for the beneficial owners of Deeds of Trust upon lots in the
 Blue Ridge Acres Subdivision, Jefferson County, West
 Virginia, and on behalf of all other Trustees in said
 capacity and similarly situated,
 Defendants,

JOHN DOE and all other non-residents and unknown lot owners
 in Blue Ridge Acres Subdivision, who oppose the restructuring
 of road maintenance fees for the Blue Ridge Acres
 Subdivision, Jefferson County, West Virginia,
 Defendants.

ORDER

This matter came before the Court this 17th day of
 July, 1986, upon the papers and proceedings formerly read and
 had herein, upon the appearance of Plaintiffs, by counsel,
 Braun A. Hamstead, upon the appearance of resident Defendants
 by counsel, D. Frank Hill, III, and upon the appearance of
 pro se property owners Earl Newton and Thelma Newton,
 Fernando Chavez, Robert Smith, Jr., and Edwin Weber.

Received & Filed in the office of
 the Clerk of the Circuit Court of
 Jefferson County, WV on 8-7-86

DEPUTY CLERK.

Whereupon the Court did then consider the Amended Complaint as filed by the Plaintiffs, the supporting Certificate of Publication, and the Answer filed by counsel for the resident Defendants.

Whereupon counsel for the resident Defendants asked leave to amend his Answer. There being no objection, the Court ordered the Amended Answer filed.

Whereupon the Court did then consider the Affidavit of Deputy Sheriff Russell Shackelford wherein he attests to inspection of the legal notice, once each week for three consecutive weeks, duly posted at the entrance of the Blue Ridge Acres subdivision, and its supporting photographs. Said Affidavit appearing to be proper, the Court did then order it filed and the Court finds that due notice has been perfected of this proceeding and the hearing scheduled for this day in accord with the prior order of this Court.

Whereupon counsel for the Plaintiffs and counsel for the resident Defendants did tender to the Court a stipulation containing a proposed resolution of the issues.

The Court did then summarize the contents of the stipulation and consider comments and questions from property owners, pro se. Whereupon counsels for the Plaintiffs and Defendants did amend the stipulation the Court having reviewed same, did order it filed.

And upon consideration of all of which, it is, by the Court,

ADJUDGED and ORDERED that there has been adequate notice to members of the class of Defendants who might oppose the proposal sufficient to permit their appearance this date and the Court observes that at this time, following the additional notice ordered by the Court, further appearances have been made but there is no objection to the modification of the restrictive covenants to make them uniform in accord with the stipulation as amended, and the Court further finds that the appearance of the Plaintiff property owners to be representative of the entire class so as to justify the finding of the Court that the class is adequately represented this date.

After hearing from members of the class, both those represented by counsel, and those not represented by counsel, pro se, the Court doth deem it necessary to modify and amend the restrictive covenants to protect the members of the class, to prevent diminution of property values due to bad or impassable roads, and to provide access to emergency vehicles, and to protect the health, safety and welfare of the residents, and that there is a compelling reason for the Court's intervention and review of prior restrictions and regulations as enumerated and set forth at the time of the creation of the homeowners' association.

The Court further finds that the stipulation presented by the Plaintiffs' counsel and Defendants' counsel, and approved by the pro se representatives of the class of Defendants appears to be the least restrictive and most reasonable mechanism under which regulations of the

homeowners association can be modified for the protection of all members of the class.

And in consideration of which, it is hereby, by the Court, ADJUDGED and ORDERED that the restrictive covenants in that certain subdivision known as Blue Ridge Acres, Harpers Ferry District, Jefferson County, West Virginia, are hereby modified and amended so as to conform to the following road assessment provisions which shall run with the land and shall apply to all lands in said subdivision:

a. Class I Lots (less than 20,000 square feet), unimproved, shall be subject to an assessment of \$20.00 per calendar year.

b. Class II Lots (more than 20,000 square feet), unimproved, shall be subject to an assessment of \$40.00 per calendar year.

c. Class III Lots (regardless of acreage), improved by dwelling, 400 square feet or more, shall be subject to an assessment of \$50.00 per calendar year.

Such assessments shall apply to all lots in the subdivision, irrespective of the number of lots owned by any one person.

For the purposes of the road maintenance assessment, no lot shall hereinafter be enlarged by consolidation with another lot.

The road maintenance assessment may be increased in accordance with the following:

a. The annual assessment amount may be annually increased by an amount not to exceed \$20.00 per calendar year.

b. Either the Board of Directors of the Blue Ridge Acres Civic Association, Inc., or any member of the Association, may propose such an increase to the membership at its annual membership meeting, at which time, to effect such increase, the affirmative vote of sixty (60) percent of the Association's membership present and voting, whether in person or by proxy, shall be required, and, upon such affirmative vote, said increased assessment shall be effective the first day of the Association's ensuing calendar year.

It is further, by the Court, ADJUDGED and ORDERED, that a certified copy of this order shall be posted at the entrance road of the subdivision in the same manner as previously done for purposes of this hearing, which order shall also be recorded in the Office of the Clerk of the County Commission of Jefferson County, West Virginia.

The Clerk shall enter the foregoing as of the date and day first above written.

Patrick G. Henry
Judge

Approved: BRAUN
Braun A. Hamstead

Approved: D. Frank Hill, III
D. Frank Hill, III

A TRUE COPY
ATTEST:



BY Judge P. G. Henry

CERTIFICATION OF CIRCUIT CLERK

State of West Virginia, County of Jefferson, Sct.

Clerk's Office of the Circuit Court
of Jefferson County, at Charles
Town, in said State,

I, Rosa W. Lynch Clerk of said Court, having by law the custody of the seal, and all papers, books, documents and papers of or pertaining to said Court, hereby certify the paper hereto annexed to be a true copy appertaining to said Court, and on file and of record in said office, to-wit: an order dated July 17, 1986 signed by Patrick G. Henry, III, Judge, in Civil Action No. 85-C-379. Elizabeth Lartz, et als vs. Blue Ridge Acres Civic Assn., Inc., et als



In attestation whereof I have hereunto set my hand and affixed the seal of said Court this 11th day of August, A. D., 1986

Rosa W. Lynch

By: Judy Simon Clerk of said Court,
Deputy Clerk

State of West Virginia, County of Jefferson, Sct.

IN THE CLERK'S OFFICE OF THE COUNTY COMMISSION:

On AUG 19 1986, at 12:45 P.M., the foregoing document was received in my said office and duly admitted to record.

Test,

John E. Ott
Clerk of County Commission

COPY, TESTE

John E Ott CLERK OF THE
COUNTY COMMISSION OF JEFFERSON
COUNTY, WEST VIRGINIA

By: Shirley Magala, Deputy