

Lawsuits

Lawsuits can be expensive, particularly for the losing party since Virginia law allows for the winning party to petition the Court to require the losing party to pay the legal costs of both parties, as well as any monetary award that may be granted by the Court. If a POA is the loser in a lawsuit, the landowners are responsible for providing these funds.

Therefore, to ensure that no lawsuit is initiated without the knowledge and approval of the full Association membership, the following POA Regulation is proposed:

“The Buckhorn POA Board of Directors shall not initiate any lawsuit or commit POA funds for any Court action until a detailed explanation of the issue has been presented to the membership, and approval to pursue the lawsuit has been received through a majority vote of the POA membership. Vote shall be by written ballot mailed to every lot owner, along with the written description of the proposed lawsuit. Ballots shall be due three (3) weeks from the postmark date. If a ballot is returned as undeliverable, every effort shall be made to forward the ballot; however, the ballot remains due from the original postmark date. Once counted, the ballots shall be kept for three (3) years and shall be available to any property owner for viewing if so requested.”

This Regulation shall not prohibit the Board of Directors from pursuing legal action against lot owners who fail to pay their annual dues (through Memorandum of Lien filed with Alleghany County Clerk of the Circuit Court), nor shall it preclude the Board from seeking legal advice when/if needed.