CULTURA LAW
LLC

April 22, 2019

Via Email
Eugene Orlando, Jr., Esquire
Orlando Law Offices, P.C.
2901 St. Lawrence Avenue, Suite 202
Reading, PA 19606

Re: Tree Tops Subdivision Common Space Trust

Dear Gene:

I am writing (again) concerning the Drainage Basin in the Tree Tops Subdivision. It has been a year since I appeared at the Township Supervisors Meetings in April and May 2018. As you may recall, at the May meeting, the Supervisors told me that the Township was unwilling to become involved in the Tree Tops Drainage Basin situation.

Since last May, however, Mr. Fielding and I arranged a meeting of the Homeowners of the Tree Tops Subdivision. It was held in December 2018. At that meeting, several questions arose. I have attached a list of those Questions.

I am asking you to discuss these Questions with the Supervisors, perhaps at your next meeting on May 9th.

Representatives from the Homeowners (as well as Mr. Fielding and I) will attend the Supervisors June 13th meeting to hear the Supervisors' reply.

Regards,

James R. Fegley

Xc: John A. Fielding, III, Esq., Trustee
Tree Tops Subdivision Homeowners

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501 Washington St, Suite 402
Reading, Pa 19601

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LIST OF QUESTIONS
From
HOMEOWNERS OF TREE TOPS SUBDIVISION

1. Would Maidencreek Township agree to take over the maintenance responsibilities of the Tree Tops Drainage Basin?

Please Note – all the following questions arise if the answer to Question 1 is "no."

2. Does Maidencreek Township still have any monies in escrow from the original development of Tree Tops? Please know that homeowners in Tree Tops have heard that there is $33,000 still in escrow.
3. Was any amount of public money used when the Drainage Basin was put on the Tax Sale list and when it was eventually deeded to the current Trustee? If so, how much?
4. Would Maidencreek Township be willing to turn over any remaining escrow funds to the Trust for continued maintenance of the Drainage Basin?
5. If the answer to Question #4 is "no," would Maidencreek Township be willing to pay for whatever is needed to get the Drainage Basin "up to code?"
6. Does Maidencreek Township have the legal responsibility to maintain stormwater runoff in Tree Tops? Did Maidencreek Township meet all DER's requirements as it pertains to this subdivision?
7. How many drainage basins does Maidencreek Township maintain itself?
8. How many drainage basins are still privately maintained?

CULTURA LAW
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To: Maidencreek Township Supervisors

Date: 06.04.19

Subject: Answer to Board Question about Unpaid Dues from Homeowners

Clients: Tree Tops Subdivision Common Space Trust

By letter to me dated May 29, 2019, your Board Secretary transmitted all of your answers to the Questions that I had posed in my earlier correspondence. Thank you.

There was one Question that the Board had asked of me in that correspondence and I wanted to provide the Board with a reply in advance of the meeting on June 13th.

There are 122 Lots in the subdivision known as Tree Tops. As you may recall, the subdivision proceeded in 3 Phases.

As of May 30, 2019, there is $37,493.00 in outstanding Accounts Receivable now (or past) due from 77 homeowners.

I would like to address the further Question of how to go about collection of those Accounts Receivable with the Board at the meeting on June 13th.

I want to answer this additional Question, and I will do so at that meeting, but I will add that there is a definition in the Trust Agreement created by the original developer, Glenn Sandritter, that has created quite a mess. That definition is (and I quote):

> "Lot – Any real estate located within the boundaries of Tree Tops or in any other Phase of Tree Tops, or any extension thereof, specifically made subject to the terms hereof by an instrument accepted by the Trustee and recorded in the office of the Recorder of Deeds in and for Berks County, Pennsylvania, (emphasis added) and owned in single and separate ownership (including, without being limited to, any and all forms of joint ownership) together with any improvements located thereon."

Regards,

PHONE: 610-926-4920 FAX: 610-926-6314

MAIDENCREEK TOWNSHIP
BOARD OF SUPERVISORS

1 QUARRY ROAD * P.O. BOX 319 * BLANDON, PA 19510
www.maidencreek.net

May 29, 2019

James R. Fegley
501 Washington St, Suite 402
Reading, PA 19601

Dear Mr. Fegley,

I wanted to provide you with answers to the questions you mailed to Gene in advance of our June 13th meeting.

1. Would Maidencreek Township agree to take over the maintenance responsibilities of the Tree Tops Drainage Basin? **Board Question – Have all property owners paid their annual dues?**
2. Does Maidencreek Township still have any monies in escrow from the original development of TreeTops? **The Township has $29,298.29 in escrow at Fleetwood Bank.**
3. Was any amount of public money used when the Drainage Basin was put on the Tax Sale list and when it was eventually deeded to the current Trustee? If so, how much? **$49,181.14 was used from the TreeTops escrow to finish the TreeTops Phase II punch list and re-establish the Trust. Spreadsheet attached.**
4. Would Maidencreek Township be willing to turn over any remaining escrow funds to the Trust for the continued maintenance of the drainage basin? **The Board needs a legal opinion for what the escrow can be used.**
5. If the answer is no, would Maidencreek Township be willing to pay for whatever is needed to get the basin up to code? **The basin was inspected 10/17/2012. Email report attached. The basin does function as designed.**
6. Does Maidencreek Township have the legal responsibility to maintain stormwater runoff in TreeTops? Did Maidencreek Township meet all DER's requirements as it pertains to this subdivision? **The plan met storm water standards when it was recorded. Drainage on private property was inspected when installed. The Township is responsible for MS4 activity where road drainage enters into waters of the Commonwealth. We are not aware of drainage problems along the roads.**
7. How many drainage basins does Maidencreek Township maintain itself? **One basin in Shadow Ridge. The basin was installed many years after the subdivision was recorded to correct a runoff problem created by the Villages at Maidencreek. Forino Grande converted a building lot into the basin at his expense on the condition the Township take dedication.**

8. How many drainage basins are still privately maintained? **Ten basins are privately maintained either by a HOA or the property owner who owns it.**
    a. **Treetops – 1 (HOA)**
    b. **Meadowbrook – 2**
    c. **Melrose Place – 2 (HOA)**
    d. **Shadow Ridge – 1 of 2**
    e. **Village at Maidencreek – 1 (HOA)**
    f. **Thon (Lindbergh Avenue) – 1**
    g. **Glen Mar – 1**
    h. **Boyer Place – 1**

If you have any other questions prior to the meeting, please email me and I will try to help you.

Best Regards,

Diane Hollenbach

Diane Hollenbach
Manager
Maidencreek Township

Cc: Eugene Orlando

TreeTops Improvements Escrow
Updated 11/19/2013

			Expenses	Explanation
2/15/2001	$	77,990.00		
12/31/2003	$	76,884.38		
12/31/2004	$	77,754.83		
12/31/2005	$	79,303.11		
12/31/2006	$	80,584.70		Bills paid before 2007 were for Engineering inspections
12/31/2007	$	82,211.24		Expenses prior to this if required, will need to be brought from offsite
12/31/2008	$	83,870.63		
12/31/2009	$	85,085.69		
12/31/2010	$	85,897.26		
12/31/2011	$	78,005.99	$ 8,010.00	Transferred Interest to General Fund December 2011
12/31/2012	$	33,825.17		
12/31/2013	$	33,261.60		

Date	Interest	
1/31/2012	$	46.25
2/29/2012	$	43.29
3/31/2012	$	40.90
4/30/2012	$	15.74
5/31/2012	$	13.98
6/30/2012	$	13.28
7/31/2012	$	12.71
8/31/2012	$	9.49
9/30/2012	$	7.44
10/31/2012	$	7.67
11/30/2012	$	6.41
12/31/2012	$	4.61
1/31/2013	$	4.31
2/28/2013	$	3.89
3/31/2013	$	4.28
4/30/2013	$	4.10
5/31/2013	$	4.23
6/30/2013	$	4.10
7/31/2013	$	4.24
8/31/2013	$	4.24
9/30/2013	$	4.10
10/31/2013	$	2.73
11/30/2013	$	1.50
12/31/2013		
Total	$	263.49

Interest to be deducted 1/6/2014

TreeTops Improvements Escrow
Updated 11/19/2013

Date	Expense	Detail
9/19/2011	$ (313.50)	Reestablishment of Trust
10/13/2011	$ (132.00)	Reestablishment of Trust
11/15/2011	$ (198.00)	Reestablishment of Trust
11/15/2011	$ (913.16)	Asbuilt work
12/12/2011	$ (265.50)	Reestablishment of Trust
1/20/2012	$ (332.00)	Reestablishment of Trust
2/10/2012	$ (214.50)	Reestablishment of Trust
2/10/2012	$ (4,968.64)	Asbuilt and survey work
3/12/2012	$ (167.00)	Reestablishment of Trust
3/15/2012	$ (10.00)	Check Printing
3/20/2012	$ (5,579.00)	Water and Sewer Tapping Fee Lot 138
4/12/2012	$ (17,000.00)	Installation Water & Sewer Lot 138
4/12/2012	$ (150.00)	Inspection of installation Lot 138
4/13/2012	$ (82.50)	Reestablishment of Trust
5/11/2012	$ (313.50)	Reestablishment of Trust
5/22/2012	$ (1,250.00)	Balance to finish Lot 138
5/25/2012	$ (195.00)	Reestablishment of Trust
6/14/2012	$ (528.00)	Reestablishment of Trust
7/12/2012	$ (181.50)	Reestablishment of Trust
8/9/2012	$ (247.50)	Reestablishment of Trust
9/13/2012	$ (127.00)	Reestablishment of Trust
11/8/2012	$ (33.00)	Reestablishment of Trust
11/9/2012	$ (6,491.91)	Survey and Monument Placement
12/13/2013	$ (264.00)	Reestablishment of Trust
12/13/2013	$ (4,445.38)	Asbuilts
3/14/2013	$ (605.29)	Asbuilts
	$ (45,007.88)	**TOTAL SPENT TO FINISH PHASE II IMPROVEMENTS**

	$ (2,951.00)	Cost to reestablish the trust and trustee for maintenance of the detention basin per plan note

3/14/14 ($3272.69) Survey + Asbuilts
9/22/14 ($900.57) Survey & Asbuilts

updated 12/31/15

$49,181.14

From: Mark Kitzmiller <m.kitzmiller@sdei.net>
To: Thomas Unger <t.unger@sdei.net>; Diane Hollenbach <maidentwp@aol.com>
Subject: Treetops Detention Basin
Date: Wed, Oct 17, 2012 4:18 pm

Tom & Diane:

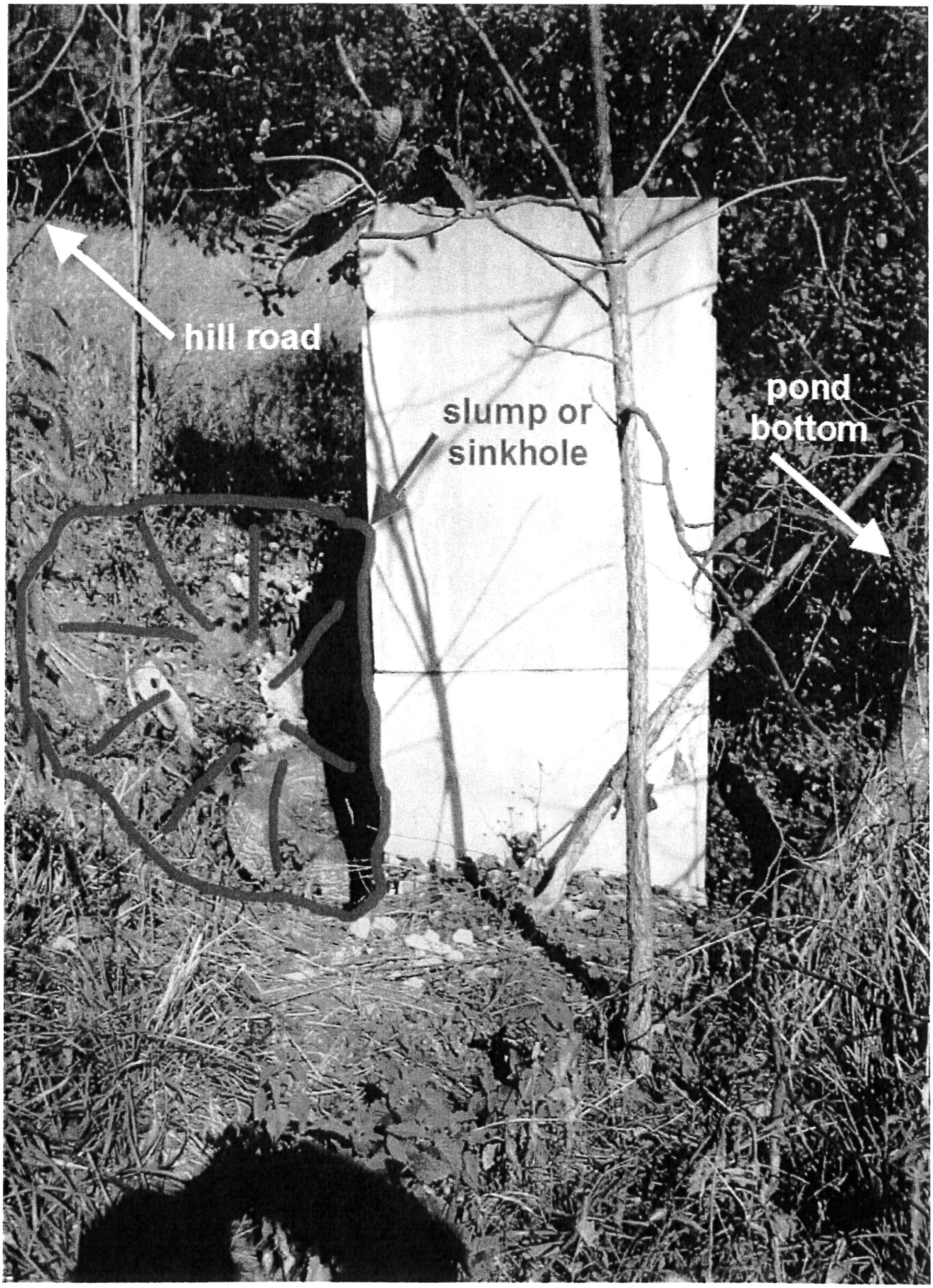
Evaluated the Treetops detention basin 10/17/12, looking for problem areas, defects, etc.

In all, the basin is in good condition. All components (inlets, outlets, spillway) appear to be in place and per plan. Pipe outfalls are not significantly eroded. There is minor animal burrowing (probably groundhogs) activity, but no structural issues are apparent.

There is only one (1) item that appears to warrant monitoring, but not immediate repair:

a slump or possible sinkhole adjacent to the high side of the outlet structure riser box (pictured below). This looks more like slumping than a sinkhole, however, and it looks old. Doesn't appear to warrant a repair, but should be monitored. It's in the area over the outlet pipe; the outlet pipe is about 7 – 8 feet below ground in the picture and flow is freely making its way to the receiving catch basin in Hill Road (so a pipe collapse is not likely to have caused the slump).

More below…


hill road
slump or
sinkhole
pond
bottom

Following is a list of general observations – there are no repair or maintenance items in this list:

If the basin is viewed as having 4 sides, 2 long and 2 short, the 2 long sides and 1 short side all appear to have a 3:1 slope. The other short side along Sycamore has a more gradual slope, maybe 4 or 5 to 1.

There are 2 influent pipes – one from Sycamore (36" +/- and 18" +-). The outlets of both pipes are stable and show no significant erosion. There is evidence that the 36" carries a lot of flow – there is grit/anti-skid material washed all the way to the outlet and a large sediment "delta" has formed near the pipe outlet. Neither requires maintenance at this time.

There are wetland plants growing in the basin bottom – nothing irregular. The entire basin is vegetated and no significant erosion is evident.

There is a 12" concrete pipe that drains the basin at the bottom. This pipe connects to a 2x4 catch basin box riser. The riser is about 13 feet deep; and about 5.5 feet is exposed above ground, along the side slope. The 12" pipe is the only outlet that drains the basin, other than the top of the riser box, which is 13 feet above the 12" pipe. All structures are clean and flowing with a trickle of water, probably springs.

2x4 box is 13.75 feet from grate to floor; about 13.5 feet to the invert of the 12" coming in. Outlet appears to be a 36" HDPE, cut on a skew such that the opening takes up the entire 4' interior wall at the base of the box.

The emergency spillway is defined and appears to drop about a foot along the berm at Hill Road. The outer berm is mowed.

The pond outlet pipe connects to a catch basin along Hill Road. It is flowing at about the same amount coming in from the 12" inside the basin.

There were no verifiable high water marks in the basin – there was some staining on the inflow pipe wingwall from Sycamore Rd. – if it's accurate, it would seem that only about 2-3 feet of water ponds in the basin. There were some piles of sticks that could indicate higher water, but not reliable marks.

Mark A. Kitzmiller

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