

Alden Pines Home Owners Association, Inc.
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January ____, 2010

AN OPEN LETTER TO ALL APHOA MEMBERS

In accordance with the Alden Pines Homeowner Association (APHOA) bylaws, an annual Homeowners' Association membership meeting has been scheduled for March 8, 2010. The meeting will begin at 7:00 pm at The Olde Clubhouse.

Information will be shared at this meeting that could significantly affect future property values in the Alden Pines Development. **Whether you are a dues paying member of our Homeowners Association or not, you will want to attend this meeting!**

At question is a 1980 surface water permit issued (but never previously enforced) by the Southwest Florida Water Management District (SFWMD) to the original developers of the Alden Pines Subdivision. After 29 years of operation, with no known water management issues, SFWMD personnel have recently determined the current golf course owners are out of compliance with the 1980 permit. SFWMD has formally advised Stew Bennett and his partner that they must take action to bring the golf course into compliance with the original provisions of the permit or face legal action by the District.

Because the original permit required the operating entity to be a "Homeowners Association", we anticipate SFWMD will also involve APHOA in this matter. For this reason, we will be soliciting both input and commitment from our members for possible financial support for resolving this issue in the coming months.

BACKGROUND

In 1980, during the time of infancy for the Alden Pines Development, the Land Developer was required to secure a surface water permit from the Southwest Florida Water Management District. The District required such a permit to assure the Developer would control passage of rainwater over the land they were developing.

The original permit required the Developer to build two weirs on the golf course that would retain water in ponds and pipes to a level of about 3 foot NGVD (National Geodetic Vertical Datum). NGVD is a measure of land elevation that means essentially the same as Mean Sea Level. For your information and as a point of reference, most of our roads have been built at 5 feet NGVD. The 1980 permit also required that minimum floor elevation of residences be at least 13 feet NGVD and it that a "homeowners association" be the operating entity for the permit.

The Developer built the golf course without installing the weirs, as was required by the SFWMD permit. As indicated above, the Water Management District never attempted to enforce the weir construction requirement until just recently.

In 1993, the Developer sold the golf course to the present owners. The surface water permit was never conveyed to the new owners nor was the Water Management District requirement disclosed to them.

In 1997, APHOA was incorporated as a Homeowners Association. Unbeknownst to APHOA, the Association appears to have assumed (along with all the other "Deeds of Restriction") maintenance responsibility for the surface water system.

ISSUES OF COMPLIANCE WITH THE SFWMD MANDATE:

There are a number of potential problems associated with following the recent SWFWMD instructions.

Since the original permit was issued, several fairways on the golf course have been built at 3.1 to 3.3 feet, somewhat above the 3-foot requirement of the permit. Many homes have been erected with floor elevations below the specified 13-foot elevation.

All indications are that the installation of the weirs could cause the normal level of the water in our golf course ponds to rise about two feet. A heavy rainfall could then result in several of the fairways flooding and remaining flooded for several days. Such an event would likely kill the grass on the golf course, making the course unplayable. The golf course is dependent on income from people playing on the course: no players, no golf course. Without the golf course in our community, we can anticipate depreciation in property values.

There is concern that such an installation may place some private pools, lanais and garages near the golf course at risk.

BOARD ACTIONS TO DATE:

The APHOA Board of Directors has determined it is in the best interest of APHOA and local property owners to partner with the owners of the golf course to present a united front to the SFWMD on this issue. Preliminary actions taken to date by Stew Bennett for the golf course and by the Board of APHOA include the following:

1) After research and personal interview, the Golf Course owners have retained professional engineer Carl Barraco of Barraco and Associates, Inc to provide them technical advice on moving through the permitting process with the Southwest Florida Water Management District.

2) After research and personal interview, the Board of APHOA has retained Attorney Steven Hartsell of the Pavese Law Firm in Fort Myers to represent APHOA in this matter.

Barraco and Hartsell have worked together in the past to successfully negotiate permit issues with the SFWMD. After discussions with both these professionals, we feel confident they will do the same for us.

Please mark your calendars for the March 8th meeting. **It may prove to be the most important APHOA meeting held since the organization's inception 12 years ago!**

Be reminded that only dues paying members of APHOA may vote on Board motions. If you have not yet paid your 2010 dues, you are encouraged to do so. For your convenience, we are enclosing a 2010 dues invoice.

Sincerely,

Max Navia, President
Alden Pines Homeowners Association

Enclosure: 2010 Dues Invoice