

Kim,

Thanks for your prompt reply. Since I am retired, either time will work for me.

Regards,

Bob

On 09/03/2020 9:55 AM Kim Gaddis <kgaddis@gaddislanier.com> wrote:

Hi, Eli: yes, I can do a conference call with you today at 4:00 pm or tomorrow at 11:30 am. Let me know if one of these dates and times work for you.

Kimberly C. Gaddis, Esq.  
GADDIS & LANIER, LLC  
(404) 625-5878 (Cell)  
(404) 459-7055 (Main)  
www.gaddislanier.com

Sent from my iPhone

On Sep 1, 2020, at 5:09 PM, Eli Sbaity <eli@ebyteware.com> wrote:

Hi Kim,

Hope all is well. We hoped this case will wrap up on a good note, unfortunately, we are a stage where we need a letter from you to put this homeowner on notice.

So much has transpired since our last conversation which is best communicated over the phone. Please let us know your availability for a call ASAP.

Thanks,

Eli

**From:** Kim Gaddis <kgaddis@gaddislanier.com>

**Sent:** Friday, August 7, 2020 12:39 PM

**To:** Eli Sbaity <eli@ebyteware.com>

**Cc:** bob.kern@cooksvalleyhoa.com

**Subject:** RE: Cooks Valley Phone Call

Eli,

Thanks for your email below. I had not written a letter on this after our call because I had seen all of the emails and correspondence that the Board and ACC was having with the affected Owner, so I didn't think one was necessary. Also, as to having to share the plan with the neighbors, the answer is NO, the Board does NOT have to share the plans for the homeowner doing the work when the plans do not come onto the neighbor's property in order to resolve the problem.

I apologize for my delayed responses on the last questions, but I have been swamped with many cases in the past few weeks and I knew it seemed that you had this one under control.

I am glad that it seems this has worked out well, and please feel free to call me if you need assistance on this in the future if something else arises.

Thanks!

*Kimberly C. Gaddis, Esq.*

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**From:** Eli Sbaity [<mailto:eli@ebyteware.com>]

**Sent:** Friday, August 07, 2020 12:23 PM

**To:** Kim Gaddis <[kgaddis@gaddislanier.com](mailto:kgaddis@gaddislanier.com)>

**Cc:** [bob.kern@cooksvalleyhoa.com](mailto:bob.kern@cooksvalleyhoa.com)

**Subject:** RE: Cooks Valley Phone Call

Hi Kim,

Hope all is well. Please ignore all emails you received from me related to this matter. The ACC had to respond to the homeowners as the grading work is scheduled to begin on Monday or Tuesday. There is no need for you to draft a letter as we have already responded to the homeowner as shown below.

We will update you should this matter escalate and require your assistance.

Thanks,

Eli

Hi Andy,

Responding to your last email, Penny received a call on 8/3/20 from the Erosion Control Department, who gave her approval to act on the plan we conditionally approved.

This plan had been submitted to David Breden, Manager of Cobb County's Storm Water Management . His comments were included and formed the basis of our conditional approval. Penny also called David and confirmed this. If the county is OK with the project, the ACC cannot stop them from initiating and completing it. This is also the advice from our attorney.

We have spoken with the contractor who confirmed buried utilities will be marked, a silt fence will be installed and work should begin next week.

Regarding the packets you distributed to the ACC members with the exceptions of Bob and me, the ACC had been included in this conversation along the way and have unanimously rejected the a meeting since they had already reviewed the material and there was no need to rehash it, not to mention that this would be unwise due to the current pandemic.

We all hope this works out for the benefit of all - you and Tricia, the Yangs and Cook's Valley.

Regards,

Eli & Bob



**From:** Eli Sbaity <[eli@ebyteware.com](mailto:eli@ebyteware.com)>  
**Sent:** Sunday, August 2, 2020 11:50 AM  
**To:** 'Kim Gaddis' <[kgaddis@gaddislanier.com](mailto:kgaddis@gaddislanier.com)>  
**Cc:** 'bob.kern@cooksvalleyhoa.com' <[bob.kern@cooksvalleyhoa.com](mailto:bob.kern@cooksvalleyhoa.com)>  
**Subject:** RE: Cooks Valley Phone Call

No problem. Thanks Kim.

Here is the latest development.

1. We “conditionally” approved a Plan submitted by Penny without pre-approving it by Andy since the pipes will not go through his front yard (I shared with you in previous email).
2. Andy was furious and demanded a copy of the plan. We told him that we are waiting on the lawyer’s response if the ACC can share the plans with him. Penny paid for and owns the plans, and sharing it with the ACC may not give us the right to share with Andy without Penny’s approval.
3. He now claims to have a copy of the plan. We initially thought Andy got it from Penny, but she confirmed that she did not give it to him. It is possible a member of the ACC gave the plan to Andy without the committee’s approval.

Bob & I believe we have spent lots of effort and energy on this, and we prefer to go forward with Penny’s plan without Andy’s involvement. Since the pipes will not go thru his property and will channel the water to the street, his involvement and approval should not be needed.

Andy and his wife made it clear they will resist and not accept the ACC's decisions, for that I want to make sure the ACC's steps will not expose the HOA to future litigation should Penny's plan not meet the desired outcome.

Thanks,

Eli

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-----Original Message-----

From: Andy Price <[andytaylorprice@gmail.com](mailto:andytaylorprice@gmail.com)>

Sent: Saturday, August 1, 2020 8:10 PM

To: Eli Sbaity Hoa <[eli.sbaity@cooksvalleyhoa.com](mailto:eli.sbaity@cooksvalleyhoa.com)>

Cc: Bob Kern <[bob.kern@cooksvalleyhoa.com](mailto:bob.kern@cooksvalleyhoa.com)>

Subject: In response to your email dated 8/1/2020

Hi Eli, we have already obtained a copy of the "plan" that was submitted to ACC. This plan is not in compliance with our covenants and total lacking of the specifications required in our covenants. We are now requesting a meeting with the full committee of the ACC present. Our covenants allow you to call a special meeting. At this time we are also requesting the HOA stop contacting its lawyer and wasting our HOA dollars.

The covenants clearly state how this committee is to function and it is Imperative that all parties involved conduct the business of the ACC in this manner.

Phone calls and emails scattered between individual's have done nothing but confuse these issues for everyone including our neighbors.

The meeting we have requested above will alleviate this confusion and refocus everyone's efforts on the original goal of a solution that complies with Cobb County, the HOA and clarifies all the specifications that must be included in a complete plan. This is NOT only about size of pipe by any means! Grading, pitch on ground & pipes, silt fencing during construction to name a few. We all know water cannot run uphill therefore the plan submitted is not anywhere near a solution & will only make the situation worse. It is our property that is being affected most

(destruction of & devaluation of )therefore it is not solely up to the ACC to make decisions on this matter & exclude us from all information pertaining to the impact on our property .

Respectfully submitted ,

Andy and Tricia Price

Cc: all ACC members

Sent from my iPhone=

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On August 1, 2020 at 6:43 PM Eli Sbaity <[eli.sbaity@cooksvalleyhoa.com](mailto:eli.sbaity@cooksvalleyhoa.com)> wrote:

Hello Andy & Tricia,

In response to your email dated 7/27/20:

1) Regarding your request to see the drainage plan submitted for 2566 Chestea Drive: On behalf of the ACC I regret we are unable to provide you with this information at this time. We reached out to the HOA's lawyer's for guidance and opinion if the ACC is permitted to share information provided by a homeowner with another. I expect to hear from her next week. Until then, should you need the plan sooner I suggest you contact Penny who submitted the plan to the ACC and ask for a copy.

2) Regarding the status of the work: I understand you requested a county representative to visit your property to assess the drainage situation with the hope they issue a stop-work order. After

the meeting was concluded on 7/28/20, Penny sent us an email stating the work is on hold, as instructed by the county's representative, until she hears from the county.

Regards,

Eli

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-----Original Message-----

From: [andytaylorprice@gmail.com](mailto:andytaylorprice@gmail.com) <[andytaylorprice@gmail.com](mailto:andytaylorprice@gmail.com)>

Sent: Monday, July 27, 2020 11:38 PM

To: Cooks Valley <[cvhoa@cooksvalleyhoa.com](mailto:cvhoa@cooksvalleyhoa.com)>

Subject: Thank you for contacting Cooks Valley

You have new message from Cooks Valley

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First Name: Andy and Tricia

Last Name: Price

Email: [andytaylorprice@gmail.com](mailto:andytaylorprice@gmail.com)

Phone: 678-725-5765

Message: To the CooksValley ACC committee:

Tricia and I are requesting to

see the drainage plan submitted for 2566 Chestea Drive. It is our understanding that it is not a detailed plan including grade pitch etc.

These things must be included in any consideration on a project of this magnitude and scope. The covenants indicate these details must be included. Due to the impact this has on our property so far and that easily could become worse is why we are requesting to see what has been submitted. Our request is to protect our property from further damage and devaluation. We will



continue with the Cobb County that any Grading more than six inches and/or changing the topological grade of a lot must be permitted. Also itâ€™s illegal to put in a drainage system that discharges water on a neighboring lot. It is imperative that we be included with any plans submitted since it will directly impacts us.

Respectfully,

Andy and Tricia Price

**From:** Kim Gaddis <[kgaddis@gaddislanier.com](mailto:kgaddis@gaddislanier.com)>

**Sent:** Thursday, July 30, 2020 7:05 PM

**To:** Eli Sbaity <[eli@ebyteware.com](mailto:eli@ebyteware.com)>

**Cc:** [bob.kern@cooksvalleyhoa.com](mailto:bob.kern@cooksvalleyhoa.com)

**Subject:** RE: Cooks Valley Phone Call

Eli, I have been out of town this week, and I have a court ordered virtual mediation tomorrow, but I will try to get back to you on the below either late tomorrow or on Monday.

Thanks,

*Kimberly C. Gaddis, Esq.*

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**From:** Eli Sbaity [<mailto:eli@ebyteware.com>]  
**Sent:** Wednesday, July 29, 2020 9:53 PM  
**To:** Kim Gaddis <[kgaddis@gaddislanier.com](mailto:kgaddis@gaddislanier.com)>  
**Cc:** [bob.kern@cooksvalleyhoa.com](mailto:bob.kern@cooksvalleyhoa.com)  
**Subject:** Re: Cooks Valley Phone Call

Hi Kim,

Following our phone call regarding this property, the homeowner (Penny) contacted us and presented a plan that was conditionally approved by the ACC.

The attached PDF file includes the plan and the HOA's approval along with communication with the county.

Yesterday, the adjoining property owner (Andy) contacted us for a status and was very upset with the board's approval of a plan that he believes will not resolve the issue. We clarified to Andy that the HOA is concerned with the results rather than how Penny solves the issue and who she hires. He later sent this email:

You have new message from Cooks Valley

---

First Name: Andy and Tricia

Last Name: Price

Email: [andytaylorprice@gmail.com](mailto:andytaylorprice@gmail.com)

Phone: 678-725-5765

Message: To the CooksValley ACC committee:

Tricia and I are requesting to

see the drainage plan submitted for 2566 Chestea Drive. It is our understanding that it is not a detailed plan including grade pitch etc.

These things must be included in any consideration on a project of this magnitude and scope. The covenants indicate these details must be included. Due to the impact this has on our property so far and that easily could become worse is why we are requesting to see what has been submitted. Our request is to protect our property from further damage and devaluation. We will continue with the Cobb County that any Grading more than six inches and/or changing the topological grade of a lot must be permitted. Also it's illegal to put in a drainage system that discharges water on a neighboring lot. It is imperative that we be included with any plans submitted since it will directly impacts us.

Respectfully,

Andy and Tricia Price

Our questions to you:

1. Is the HOA obligated to share the plan and related communications with Andy and his wife?
2. Is the HOA obligated to include Andy in the discussions and involve him in the plan's execution?
3. In General, which documents is the HOA obligated to share with homeowners?

Andy and his wife made it clear they are not backing down and they referenced taking legal action against the HOA if the issue is not resolved to their satisfaction, or if the planned work causes additional damage to the property. They also told me they will be meeting with a county inspector to try put a halt to this work.

We are available for a phone call if you need additional details.

Thanks,

Eli

**From:** Kim Gaddis <[kgaddis@gaddislanier.com](mailto:kgaddis@gaddislanier.com)>  
**Sent:** Monday, July 13, 2020 3:53 PM  
**To:** Eli Sbaity <[eli@ebyteware.com](mailto:eli@ebyteware.com)>  
**Cc:** [bob.kern@cooksvalleyhoa.com](mailto:bob.kern@cooksvalleyhoa.com)  
**Subject:** [Verify Attachment] RE: [Verify Attachment] Re: Cooks Valley Phone Call

Hi, Eli:

Thanks for your email below. I am happy to discuss this with you further by phone. Are you available at 11:00 or 11:30 a.m. tomorrow?



*Kimberly C. Gaddis, Esq.*

GADDIS & LANIER, LLC

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**From:** Eli Sbaity [<mailto:eli@ebyteware.com>]

**Sent:** Wednesday, July 01, 2020 12:50 PM

**To:** Kim Gaddis <[kgaddis@gaddislanier.com](mailto:kgaddis@gaddislanier.com)>

**Cc:** [bob.kern@cooksvalleyhoa.com](mailto:bob.kern@cooksvalleyhoa.com)

**Subject:** FW: [Verify Attachment] Re: Cooks Valley Phone Call

Hi Kim,

I hope all is well. We have a situation with a homeowner that we would like to share with you over the phone. It is one of those that is better to explain to over a phone call than an email. But just so you know what we will be talking about:

1. A Homeowner (name is Penny) cut down all trees in back yard without HOA approval.
2. HOA was not made aware until after the trees were cut.
3. One of the reasons the homeowner cut the trees was to build a basketball court in backyard.
4. With the trees gone, rainwater now rushes down to the adjacent neighbor's property (his name is Andy).
5. Andy reached out to HOA for assistance and shared a video of the water flowing into his front and backyards.
6. HOA met with Penny, Andy, and the **manager from Cobb County's storm water management department**
7. HOA sent a letter to Penny demanding installation of **an 18 inch pipe to redirect water to a catch basin on Andy's property.**
8. We doubt Penny will implement a solution that truly fixes the problem.
9. Meanwhile Andy is expecting the HOA to use its authority and enforce a resolution.
10. The HOA want to help resolve this issue, but also want to make sure we are within our authority.

We need to discuss with you to determine the HOA's responsibilities and the best course of action to help resolve this issue. Please let me know your availability and will choose a time that works for me and Bob Kern.

Thanks,  
Eli

**Bob Kern**

Chairman, Architectural Control Committee

Cook's Valley HOA

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