



PORT MALABAR HOLIDAY PARK
MOBILE HOME PARK RECREATION DISTRICT

215 Holiday Park Boulevard NE
Palm Bay Florida 32907

November 19, 2021

HOLIDAY PARK BOARD OF TRUSTEES:

- 1.) Doug's Concrete has removed the hump in the middle of the road by the gate house and poured concrete. We have installed new plastic reflective poles on both sides of the concrete.
- 2.) Kendall Signs will be here next week to install the board and electronics for the LED sign
- 3.) Sheryl, Dewayne and I took a tour of the ditches and grates on the major roads. They are draining fine. Dewayne is clearing the areas in the back end of Moonlight, Greenview, and Sunflower. Flawless will be dredging and cleaning the area from the storage compound to Blossom when they dry out some more.
- 4.) We will be planting 3 large palm trees between the bocce and shuffleboard courts. We will be using all the shells between the trees and installing paver walkways by each court. The pavers will be installed in house. Bushco will be installing the palm trees. This will supply shade for the area and will be beautiful.
- 5.) I spoke to the City of Palm Bay; I'm hoping they will pressure wash (pay for) the sound wall with-in the next 30 days. (Both sides)
- 6.) To date, Cummings Pest Control has trapped and relocated 3 cats, 1 raccoon and 1 opossum on Charm Ct. Please do not feed the ferrell cats or raccoons. Not only is this time consuming for management, It's costing the park money as well!!!
- 7.) The cabinets and electrical outlets are installed in the lobby. The emergency lights will be hardwired on to the wall between the rest rooms. Custom Marble & Granite Inc. from Home Depot will be here December 22nd to measure for the countertop.
- 8.) We are getting reimbursed \$2,500 for all Attorney's fees from Buffalo Bill LLCs for 441 Holiday Park Blvd, and 1083 Greenview.
- 9.) 437 HPB is vacant, it is beyond disgusting. I am in contact with Huntington Bank and will keep the Trustees informed as to when the home may go to auction at which time, we will be invoicing them for all Attorney fees and court costs.
- 10.) We have sent in our Records Management Statement to Tallahassee.
- 11.) Discussion on staff Christmas party and bonus's.



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Please see attachments:

- a. Bushco/palm trees
- b. Letter from City of Palm Bay Regarding violations of City owned homes
- c. Letter from Attorney regarding carports

These will be in your mailboxes at the office as well

HAPPY THANKSGIVING TO ALL

Best Regards,

Sheree Morris
District Manager
Port Malabar Holiday Park



BUSHCO Landscaping Inc
 439 Franklyn Ave.
 Indialantic, FL 32903
 (321) 768-1189

LANDSCAPE/ IRRIGATION/ DESIGN
 PROPOSAL / CONTRACT

NOV 18 2021

PROPOSAL SUBMITTED TO Holiday Park	PHONE FAX <i>SM</i> Date 11/18/2021
STREET	JOB NAME
CITY, STATE & ZIP CODE	JOB LOCATION
ARCHITECT	

Furnish and install 3 large field grown queen palms.

Above total \$975.00

Important notes:

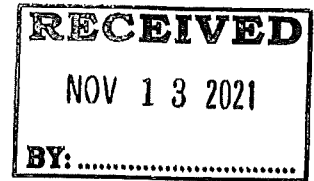
Our price does not include addition or removal of any soil or any work or materials not specifically listed above.
 It is unlikely but possible for pipes, wires, concrete, or underground structures to get damaged.
 We will not be held responsible and our price does not include repairs if any such damage occurs.

Payment in full is required upon our completion.

This proposal becomes a contract when signed by both parties and must be included in any contract.

X.....Date.....

X.....Date.....



ACC Board, Port Malabar Holiday Park
215 Holiday Park Boulevard NE
Palm Bay, Florida 32907-2196

November 12, 2021

To whom it may concern,

On October 4, 2021, the City received a notice from Port Malabar Holiday Park's ACC Board regarding violations of five (5) properties in Port Malabar Holiday Park, specifically properties located at 1285 Dove Court, and 146, 171, 254, 340 and 194 Holiday Park Blvd., which are currently owned by the City of Palm Bay. The City came to own the land for which the mobile homes are situated through escheatment by Brevard County. It is important to note that while the City has clear title to the land, it does not have clear title to the mobile homes. Therefore, the City does not have the right to make any improvements to the structure as requested in the notice.

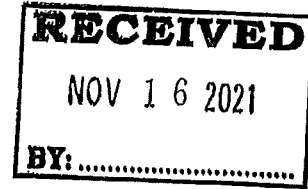
Since the properties were escheated to the City, staff has been working in coordination with the District Manager of Holiday Park, Sheree Morris, towards the goal of successfully selling the properties to eligible prospective residents. In April 2021, the City contracted a real estate broker, Ellingson Properties, LLC., to assist with the marketing and sale of these properties. In July 2021, the City and Port Malabar Holiday Park, specifically Ms. Morris and the Park's attorney Karl Boehne, drafted a Purchase Addendum regarding the ownership and condition of the mobile home. To date, the City has successfully sold three (3) properties with several more under contract for sale.

The City is respectfully asking that the ACC Board continue to allow the City and Port Malabar Holiday Park to work in coordination towards the sale of all City-owned properties in the Park. If you have any question or concerns, please don't hesitate to contact me at (321) 616-5065.

Sincerely,

Joan Junkala-Brown
Deputy City Manager

- Cc: Suzanne Sherman, City Manager
- Rodney Edwards, Deputy City Attorney
- Nancy Bunt, Community & Economic Development Director
- Jenny Walker, Ellingson Properties, LLC
- Sheree Morris, Port Malabar Holiday Park District Manager



SCHILLINGER & COLEMAN, P.A.
ATTORNEYS AT LAW

1311 BEDFORD DRIVE
MELBOURNE, FLORIDA 32940

POST OFFICE BOX 410818
MELBOURNE, FLORIDA 32941-0818

TELEPHONE (321) 255-3737
FACSIMILE (321) 255-3141

November 16, 2021

Karl W. Bohne, Jr.
Christopher J. Coleman
Charles A. Schillinger

Sheree Morris, District Manager
215 Holiday Park Blvd.
Palm Bay, FL 32907

Dear Ms. Morris:

Recently you asked me for an opinion regarding the current DOR requirement for homes to have an approved carport on an owner's lots. Below is my analysis and opinion regarding the carport requirement.

The original DORs dated February 18, 1970 provided that "No mobile home...shall be placed upon any lot unless there is also affixed thereto either an approved carport or a covered patio which may or may not be enclosed." So there was the option for a carport or patio. Carports were not mandatory. That provision remained in place until about 1984 when carports were required. *See Ordinance 84-1*. So as best as I can determine, carports became mandatory in 1984. When the DORs were amended and restated the restated DORs deferred to ACC rules as they relate to carports.

So those homes which have been in existence since 1970 without carports are "grandfathered". However, should any home in existence since 1970 be destroyed or removed after 1984, then such new homes would be required to have a carport. The issue then becomes whether the statute of limitations has run regarding enforcement of the DOPs with respect to those homes required to have a carport after the effective date of Ordinance 84-1.

DORs are considered a "contract" between the enforcing entity, here the District, and the property owners, here the lot owners. *Kilgore v. Killearn Homes Ass'n, Inc.*, 676 So.2d 4 (Fla. DCA 1996) (Restrictive covenants "are private promises or agreements creating negative easements or equitable servitudes which are enforceable as rights arising out of contract."). As such there is a 5 year statute of limitations applicable to the

Ms. Sheree Morris
November 16, 2021
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enforcement of a contract. *See F.S. 95.11(2) (b)*. So if the District was aware that a current home did not have the required and approved carport for greater than 5 years from when the District knew or should have known, then the 5 year statute of limitation would bar enforcement. However, even where the 5 years statute of limitations is implicated, should the existing home be destroyed or replaced then the District could enforce the DORs unless again the 5 year limitation period has expired since the destruction and/or replacement.

Another consideration is the concept of waiver and estoppel. Both of these theories are similar in application. Basically, if the District approved a home without a carport the District cannot go back and say put one up. However, the rule regarding destruction and replacement would apply to those homes which the District approved without a carport.

To sum up, here are the situations we could face:

- homes preexisting prior to 1984 are grandfathered;
- homes installed after 1984 should be required to have carports unless 5 year statute of limitations expired or the District approved such homes without a carport;
- regardless of year installed any home which has been destroyed or replaced and 5 year statute of limitations has not expired must have an approved carport.

Should you need anything further in this regard, please do not hesitate to contact me.

Respectfully,

/s/ Karl W. Bohne, Jr

Karl W. Bohne, Jr