

**This is the portion of the meeting that Attorney John Rogers spoke to the association on the Covenants and Declaration that are being sent out via mail in the near future during the BMLA Public Session Jan/Feb on Feb 19th, 2025**

*This transcription was completed through Fireflies AI and there may be some mistakes. The BMLA BOD has read through the transcripts and believe the content to be accurate to all items read during the session.*

My name is John Rogers. I've been an attorney for 27 years, and I've been involved with Beach Mountain on both sides. I've done some work reviewing the covenants for different boards, including this board. They asked me to do an independent review of these covenants and figure out what we have to do going forward because there's an issue where they're going to expire in 40 years. The 40 years is coming up on May 1, 2025.

I reviewed the documents, and we talked to the board, and they asked me to do a presentation. I'm also a homeowner, and I've lived here for many years now. I really like it. It's a great community, and there's so much potential. I think everybody agrees with that. But these covenants have been a problem for 40 years, actually, because it's going to be 40 years in May, and they continue to be a problem, and we're all forced to deal with them because this was written when the community started.

There are two different things here: I call them the covenants for simplicity and then there's a community declaration. The covenants were originally set up for three parts: there was Quail Hollow, and that's where they get their three board seats; there was going to be Silverleaf; and then there's Unit One, which is Beach Mountain. That governs the whole property and deals with the association, the right to levy dues, and all those different things.

Both the covenants and the community declaration expire on May 1, 2025. If they expire, that means there are no more covenants and no more community declarations. We need a vote of two-thirds of the homeowners to get this renewed for a ten-year period. We didn't decide on a ten-year period arbitrarily; that's what it says in the documents, that it gets renewed for ten years.

I know a lot of people want to rewrite them. Everybody's right; they need to be rewritten. They've been a problem for 40 years, but we can't rewrite them in two months. Once they're renewed, we can go back, and we can all look at them, and everybody can make suggestions to improve them.

Quail Hollow has three seats, Beach Mountain has three seats, and there were supposed to be three for Silverleaf, but they're not there anymore. Now you have three and three, and this board has been hopelessly deadlocked over the years because the interests are not always the same for Quail Hollow as they are for the homeowners.

Originally, this was set up to be a timeshare or resort, not a full-year-round community, and these covenants are written for a resort, not for a place where people live as their residences. A lot of these problems have come about.

So, here's what we need to do: Beach Mountain people will vote on two things. One will be to renew the covenants, and we will need two-thirds of the votes. That vote will consist of approximately 1,100 Beach Mountain residents. Quail Hollow has 54 buildings, and each building has 51 units. The way it's defined is that everybody with interest gets a vote, and interest is defined as having a deed recorded.

There are actually 51 deeds recorded for each Quail Hollow building, so they get a vote for every one of those interests. There are 1,100 Beach Mountain interests. So that's the first vote. Both Quail Hollow and Beach Mountain will vote on that. The second vote will only be for Beach Mountain or Unit One, as I call it, and that'll be 1,100 people. We will need two-thirds of the vote there to extend the Beach Mountain part of it, which is the community declaration.

We need both renewed because if they're not renewed, the consequences will be drastic. I want to go through the consequences for everybody, so you realize that it's in all our best interest to renew them.

If the covenants are not renewed, the association is still in existence, but they have no right to levy dues. They can't collect money. If you don't have the dues, you can't maintain the roads. They would have to use a common law remedy, which would mean asking each person for a percentage of the total to contribute that much towards the roads. When they don't, you would have to sue each person individually for their contribution for the road.

Now, who's going to fix the roads? It's going to be a disaster. People might say, "Why don't we just give it to Butler Township?" Well, here's the issue: Butler Township is not going to take the roads because they are not up to PennDOT specifications. There was an issue with Luzerne County at some county roads that Butler Township took, but they had to get a grant and spend millions of dollars to bring them up to PennDOT specs.

If Butler Township takes them and they come in and say the roads aren't up to specifications, now they have to find money to fix and redo all these roads. So, it's very unlikely they're going to take the roads.

What happens to the amenities? The association would still own them, but they would have no revenue. They would have to charge a membership fee or a use fee, but who would collect that? That's definitely not going to be enough to run all these amenities, the lake, the clubhouse, and all that.

You talked about the key fob system. Who's going to deal with all that? What about insurance? Are the membership fees going to be that high? Is everybody going to join? What if only a couple of people join? That would be a total disaster.

Now, what happens with the property restrictions? Right now, you have boat attachment zoning, and we're zoned A suburban residential. The community declarations actively allow for certain standards, like keeping single-family residences. If the declarations aren't renewed, even if the covenants are renewed, you have no control over what people do.

Anything that's permitted in that zone of Butler Township can happen. You can have a single-family residence, a two-family residence, or a home business. You can even have a church. So, if you want to move your church there, that's a permitted use in that zone.

So, we can have a church. You can make this the church. That's actually permitted, if you can believe it. The point is, we have no control over that.

Now, regarding security, if there are no declarations and no community declarations, you would have to rely on public cops. If something happens, you have to call 911 and wait for them to show up. There's no private security, no gate, none of that. That's all gone away.

So, when you look at all that, what does it do to property values? It's going to really impair property values because nobody's going to buy in a place that doesn't have everything worked out. Banks are going to hesitate to give mortgages if all these things aren't worked out also.

So, the long and short of it is we need to get these things renewed. We all know they're bad. We all know they're terribly written. They weren't written for 2025, clearly, and they weren't written for a community with 1,100 or whatever thousand residents.

So, let's get this done. I think the key is if we get a renewal, it will buy us some time. We talked about maybe getting a group to come in and rewrite them all, get everybody's input, and try to fix it.

There are issues with Quail Hollow, and everybody's concerned about that. They are not the timeshare they were supposed to be, or they originally were. That has to be addressed.

But that's the long and short of it. I think we need to move forward with the renewal, and then we can address these issues later.