

EMAIL 001

From: [Former property manager]
To: "Ken Quiggins" <kenquiggins@aol.com>; <kzipperle@win.net>;
"Farnsley, Doug" <DFARNSLEY@stites.com>
Sent: Monday, February 11, 2008 2:57 PM
Subject: Cantrell complaint re: handicap parking

Gentlemen

I have addressed this email to the three of you since I am not sure who will be spearheading this "project". Regardless, I am sure that you all will want to stay on top of this one.

I received a call this afternoon from Mr. Dwight Williams, who identified himself as a mediator with the Indiana Civil Rights Commission. He inquired if I would be handling the Cantrell complaint and I replied that it had been referred to members of our Board of Directors. The exact contact person was yet to be determined.

We spoke very briefly. He emphasized that mediation is the most efficient way to handle the complaint and that he was anxious to help. He inquired that the easiest solution would be to offer her a handicapped space. I replied that an offer had been made and declined (email confirmation was available). I explained that the Association did not own any space which fit her requested profile (covered in the surface lot) and that each space was deeded as limited common area with exclusive rights of use. He wondered if we had made an attempt to contact other owners who might allow her use of their space.

I concluded the conversation that it might be a couple days before the contact person was determined and a return call was made. Mr. Williams may be reached at 317-232-2628 or by fax 317-232-6580.

Doug,

By now you should have received a copy of the complaint (via fax). I also have a written opinion tendered by Jack Vissing if you would like to review. Let me know and I will fax to you.

As always thanks for your tremendous efforts.

[Former property manager]

Community Director
The Harbours Condominium Association, Inc
One RiverPointe Plaza
Jeffersonville IN 47130
www.theharbours.com
(812) 288-1100 fax (812) 282-9153

Association Owned Parking Spaces

| <u>Space #</u> | <u>Allocation</u> | <u>Status</u> |
|----------------|--------------------------------|------------------|
| 1 | Staff | |
| 2 | Homeowner (60 minute limit) | |
| 3 | Homeowner Guest (4 hour limit) | |
| 4 | Handicap by decal | |
| 18 | Handicap short term disability | Available |
| 29 | Vendor | |
| 30 | Vendor | |
| 31 | Vendor | |
| 103 | Handicap reciprocal exchange | Exchanged |
| 104 | Handicap reciprocal exchange | Available |
| 531 | Handicap reciprocal exchange | Exchanged |
| 601A | Handicap reciprocal exchange | Available |

We also have use of the two spaces which have been reciprocally exchanged.

EMAIL 002

From: "Betty Cantrell" <bettycan@insightbb.com>
To: [Former property manager]
Sent: Saturday, November 10, 2007 1:42 AM
Subject: Handicap Parking information

[Former property manager],

Thank you for the information you sent me and for your time to compile it for my records. However, there should be a list of each and every parking space, the number of the space and which unit it is currently assigned to, I did not receive that information and I would like to know if it is kept in the office for review or available to copy. As I stated before, it is impossible to obtain this information since the court recorder does not keep a separate book for Harbours parking assignments.

You had previously sent me the handicap parking space numbers for the garage and I have a copy of that. They coincide with our Second Amendment plat drawing Exhibit C and their assignments for the garage and they appear to be properly marked with the required handicap logos. The lobby parking lot also coincides with our plat drawing Exhibit C and the handicap parking spot is properly marked with the required handicap logo.

What is not coinciding with our 2nd amendment Exhibit C are the designated handicap parking spaces # 17 and #18 in the surface lot. They are no longer properly marked with the handicap logos and have been painted over. If there has been a newly recorded plat drawing of our surface (28 space) parking lot showing different assigned handicap spaces, I would need a copy of that.

Since I have given several of my copies of my Declarations to realtors over the years and they did not return them, I no longer have a complete hard copy in my files. Having most of our documents on the web sight (sic) is very helpful but the 8 amendments are not posted. Am I able to make copies of the amendments that you have in the office?

Thank you for any further information. As a member of our association, I am conducting a research project concerning handicap parking at the Harbours for CAI forum members and The Indiana Fair Housing Task Force. It can be a complicated matter and compliance issues can be a concern for associations since the elderly population is growing each and every day. Many want

to remain independent as long as possible in their homes and are not choosing an assisted living environment, if they can avoid it.

Education is a vital tool that can be helpful for Board members and managers when they make decisions for an association. Writing rules, regulations and policies can be difficult but not impossible in order for an association to be in compliance with local, state and federal laws concerning handicap parking and accessibility. Compliance and harmony can be accomplished and should be the common goal in every community.

Thanking you in advance for the requested information concerning this matter,

Betty Cantrell
#712

EMAIL 003

From: "Betty Cantrell" <bettycan@insightbb.com>
To: [Former property manager]
Sent: Saturday, November 03, 2007 11: 15 AM
Subject: Re: Request for Reasonable Accommodations, Parking Spot Exchange

[Former property manager],

Thank you for the updated information. Since the matter of handicap parking will be discussed at the pre-annual meeting, there is a possibility that I would like to discuss the matter, if the opportunity arises.

I am requesting a copy of the policies that the Board of Directors follows when assigning handicap parking spaces, a copy of the applicable declaration/amendment passages to insure that I have a correct copy, the original parking space instrument of assignment and also a copy of the most recent parking space instrument of assignment for all units at the Harbours. Names of the owners of units or owners who currently use handicap parking is not necessary due to, I assume, a privacy issue. The unit number and parking assignment and any designations for visitors, handicap parking or public use will suffice for the purpose of any discussion that may take place.

Copies of The Harbours parking space assignments, updated and as a whole, is not readily available as public record due to the failure of the courthouse to keep a separate record of the parking assignment exchanges and most recent sales in a separate book of record. I have been instructed by the courthouse recorder to obtain this information from the management office.

Please let me know when this information can be picked up or copied at the office, preferably before Wednesday, November 7th. This would give me time to adequately review them before the pre-annual meeting. Reviewing the policies and documents before the meeting would help determine if I, or anyone else, would feel the need to ask any questions concerning this matter at all, and the meeting could move forward with other important business to be discussed.

Thanks,

Betty Cantrell

Nov 2, 2007, at 3:32 PM, [former property manager] wrote:

Betty,

I would like to explain the delay in my response.

Periodically it is advisable for every organization to critique its policies in light of any recent court rulings. Upon advice of our Board of Directors, a legal opinion was sought to review our adopted policy of reciprocal exchange to reasonably accommodate handicap parking requests. Included was inspection of our policies, applicable declaration/amendment passages, the original parking space instrument of assignment, the American with Disabilities Act and the Fair Housing Amendments Act.

The legal opinion reinforced our policies. The attorney stated "It is not the duty of the Association to perfectly solve (a homeowner's) request.. .. The policy you have is to exchange, for the duration of the disability, a controlled parking spot for a handicapped designation which is next to the entrance doors on various levels of the garage during the period of disability. You then use their individually owned slot for whatever purposes are necessary that you may need an additional slot. That is not a perfect solution. It is, however, the only solution that you have available to you since you do not control the rest of the garage." ... "I believe having one short term disability parking spot for someone who has had a surgery or injury and is going to recover is appropriate. I think that needs to be guarded and not assigned except on a short term basis during a person's period of recovery."

Thus far, we have always had a handicap suitable space to offer when requested. Once again, to accommodate your request, I will convey the offer originally made on August 30, 2007 of reciprocal exchange of covered space #104 or garage space #601A or #601B.

While not a requirement, I will also make a recommendation to our Board of Directors that we initiate discussion with homeowners at our Pre-annual meeting to equip more entry doors with handicap opening buttons and attempt to secure competitive quotations. The associated costs would be an additional budgetary expense incurred by our members.

Thank you for your patience in awaiting response.

[Former property manager]
Community Director
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From: Betty Cantrell
To: [Former property manager], "KEVIN ZIPPERLE"
<kzipperle@win.net>
Sent: Monday, October 15, 2007 4:10 PM
Subject: Request for Reasonable Accommodations, Parking Spot
Exchange

[Former property manager] and Kevin,

Due to the nature of the permanent and total disability of my husband Donald, I am requesting reasonable accommodations for Donald that is in accordance with ADA, The American with Disabilities Act.

We would like to exchange our covered garage parking space #527 for a covered handicap space in the surface parking lot facility that is in close proximity to the service elevator entrance.

Could you please forward any information or policy that homeowner's association follows regarding the covered handicap parking spaces that are available in this surface lot for reciprocal exchange.

Thanking you for looking into this matter and a timely reply.

Elizabeth Cantrell
1 Riverpointe Plaza #712
Jeffersonville, Indiana 47130

EMAIL 004

From: [Former property manager]
To: "Marty Haley" <patokapirate@hotmail.com>; "KEVIN ZIPPERLE" <kzipperle@win.net>; "Mary Lou" <mltraut@insightbb.com>; "Sharon Chandler" <schandler1@aol.com>; [Three former Board members]
Sent: Thursday, August 30, 2007 5:11 PM
Subject: Fw: Handicap parking space exchange

Board Members

FYI- looks like an issue which will be brought to the Board's attention shortly.

We likely will need to seek a legal opinion but I did some internet research (see links below). If I understand correctly, these articles indicate that the association would not be subject to ADA requirements.

www.usdoj.gov/crt/foia/tal340.txt

www.meisner-law.com/articles/disabled_owner.htm

(links no longer working)

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

From: [Former property manager]
To: Betty Cantrell
Sent: Thursday, August 30, 2007 4:35 PM
Subject: Re: Handicap parking space exchange

You are welcome!!

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

From: Betty Cantrell
To: [Former property manager]
Sent: Thursday, August 30, 2007 3:55 PM
Subject: Re: Handicap parking space exchange

[Former property manager],

Thanks for the timely reply. Parking spot #104 would not help with an exchange. Don is in need of a permanent spot that would facilitate his being close to the service and resident elevator

entrance in the surface parking lot. Spot #18 would not have been acceptable since it is not covered.

I am preparing a request that the Board address the action that removed the handicap parking paint and the required handicap parking spots in this particular lot. I hope a discussion on this matter with (sic) convince the Board that the Association is not in compliance with the ADA requirements and our recorded Second Amendment (*Exhibit C*) and this matter needs to be corrected.

We never expect to request such a need as handicap parking, but as we get older and some of us become burdened with certain handicaps, we are put in a position that we must make the request. It would be expected that our Board and Association are in compliance with the ADA requirements in the surface lot for handicap parking spaces but this does not appear to be the case.

Thank you for the information.

Betty Cantrell

On Aug 30, 2007, at 2:11 PM, [Former property manager] wrote:

Betty

Sorry for the delay in response. Our server has been down since Monday afternoon.

The only handicapped spot we have on the surface is #18. This space has been designated to accommodate short term disability issues, (i.e. after surgery, etc.)

We currently have space #104 (first floor, covered space in the parking garage) available for reciprocal exchange (long term). Let me know if this would be helpful and I will send the form to you.

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

From: "Betty Cantrell" <bettycan@insightbb.com>

To: [Former property manager]

Sent: Tuesday, August 28, 2007 10:38 AM

Subject: Handicap parking space exchange

[Former property manager],

Due to the nature of the permanent and total disability of my husband Don, I am requesting to exchange garage parking space #527 to any surface lot, covered handicap space that is in close proximity to the service elevator entrance.

Could you please forward any information regarding the covered handicap spaces in the surface lot that are available for exchange?

Thank you.
Betty Cantrell
#712

EMAIL 005

From: "Betty Cantrell" <bettycan@insightbb.com>
To: [Former property manager]
Sent: Thursday, April 26, 2007 12:34 AM
Subject: Parking Spot for Sale

[Former property manager],

I received the form to transfer my parking spot to unit #819 and the copy of the Haley transaction. Thank you for your prompt attention.

Also, after reviewing the calculations for pricing parking spots, I would like to put parking spot #528 on the HOA for sale list in the office. The sale price is \$11,500. Contact information: Betty Cantrell, phone 280-9712.

Kevin has informed me that he has removed all of his surface spots from the list. He did not say which ones they were. Would you please send me a new list of parking spots available and the asking price.

Thanks,
Betty Cantrell

EMAIL 006

From: kzipperle@win.net
To: "Betty Cantrell" <bettycan@insightbb.com>
Cc: [Former property manager]
Sent: Tuesday, April 24, 2007 5:09 PM
Subject: Re: Fw: Parking spot exchange

Betty:

A week ago, I asked [former property manager] to temporarily remove all of my surface parking spaces (incl. #23) from the BOA list. They're committed to short-term needs, mostly people renting them. You've probably noticed a contractor pickup regularly parked in #23. When that space is available again, it will be relisted. I wouldn't have thought that space would be of interest to you as it's situated under another tree, like #20.

Separately, the Board decided awhile back not to promote Harbours real assets--condos, parking spaces, etc.--at discounts to market prices. We have devised a system to ensure minimum market pricing on parking spaces. Please check with [former property manager] to ensure that the listed price on your space is at or above the value we calculate.

Thanks for your interest in buying/selling parking spaces on the HOA list. KZ

Quoting [Former property manager]:

Kevin,

Forwarded per your request-sorry for the delay, we got backed up during Thunder!

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

From: Betty Cantrell
To: [Former property manager]
Sent: Wednesday, April 11, 2007 9:47 AM
Subject: Parking spot exchange

[Former property manager],

I would like to assign parking spot #527 to Unit #819 and will need a copy of the form. If Thunder preparation and Insight

installations are overwhelming right now, I could probably fill it out myself. I will leave that decision to you, not a problem here, I could just pick up the form at any time.

The current information is as follows:

Donald and Elizabeth Cantrell

Parking Space #527

Appurtenant to Unit #712 and recorded as instrument 200412392

Dated 05/21/2004. This should be the information that is on file.

I am also interested in purchasing parking space #23. Would the office handle this transaction? Could you send me the details that I would need for that purchase. Confirm price-type of payment needed-made out to whom?

I would also like to place parking space #528 on the parking spots "For Sale" list for \$11,500. It is presently assigned to Unit #712, Clark County Recorder instrument #200602801 dated 02/08/2006. Assignment was signed on 1120/2006 and should be on file.

Thanks,

Betty Cantrell

#712

Ph: 280-9712

EMAIL 007

From: kzipperle@win.net
To: "Betty Cantrell" <bettycan@insightbb.com>
Sent: Monday, February 05, 2007 10:15 PM
Subject: Re: Association Attorney information

That's fine. I got the impression that he was uneasy with the situation anyway. Probably best that you use your own attorney and put him in touch with Mr. Gesenhues if necessary. His phone number is 812-949-1000. Good luck... KZ

Quoting Betty Cantrell <bettycan@insightbb.com>:

I don't consult with any attorney that has open ended fees. Besides, we would want to consult with him in private in order to keep what concerns us confidential. Nun-ya at this point. Betty C.

From: kzipperle@win.net
To: "Betty Cantrell" <bettycan@insightbb.com>
Sent: Monday, February 05, 2007 5:16 PM
Subject: Re: Association Attorney information

Betty,

I spoke to George Gesenhues. He wants you to put in writing whatever questions you have, or whatever information you're looking for. Since he's the Association's attorney, he does not want to consult directly with any parties who may raise issues contrary to positions the Board has taken.

The procedure would be that you would query him in writing, he will return answers and comments to the Board, and this information will be forwarded to you at the discretion of the Board. I can't envision why any information would be withheld, but that's not exclusively my decision. And all of the services rendered by Mr. Gesenhues in this capacity would be at your cost.

If this is acceptable to you, please compile whatever written requests you want me to forward, and I will do so ASAP. I'll wait to hear back from you... KZ

Quoting Betty Cantrell <bettycan@insightbb.com>:

We assume that he charges an hourly rate. We are all fast talkers, shouldn't take long.

From: kzipperle@win.net

To: "Betty Cantrell" <bettycan@insightbb.com>

Sent: Tuesday, January 30, 2007 11 :48 AM

Subject: Re: Association Attorney information

I'll get back to you with info. I assume you guys will pay his bill?

Quoting Betty Cantrell <bettycan@insightbb.com>:

Kevin, After speaking with some other association members about this parking space matter, we have decided that we would like to consult with the association attorney to clarify our concerns about our governing documents and get a legal interpretation. What is his name and number, so can we set up an appointment? Thanks, Betty C.

EMAIL 008

From: "Betty Cantrell" <bettycan@insightbb.com>
To: kzipperle@win.net
Sent: Tue, 30 Jan 2007 13:15:47 -0500
Subject: Re: Concerning our limited common areas-Parking spaces

Kevin, Ok, I will research that and look into it. I was just stating the statutes, not a personal opinion. I guess I need an interpretation from an outside source. Thanks, Betty C.

From: kzipperle@win.net
To: "Betty Cantrell" <bettycan@insightbb.com>
Sent: Tuesday, January 30, 2007 11 :48 AM
Subject: Re: Concerning our limited common areas-Parking spaces

Betty,

You will not voluntarily receive summary information pertaining to personal property ownership here. That includes parking space assignments. For privacy reasons, the Board has consistently taken this position on various matters and requests like yours. On an individual parking space or condo, we might make an exception for a good reason. But never in any summary form unless required by law and approved by attorneys. I am not going to an attorney on this matter unless you pay for it. This is non-negotiable.

To reiterate, parking spaces were not assigned when the Declarations were first recorded since the Developer owned all of the condos and all of the parking spaces collectively. It is my understanding that Declarations are only recorded one time and amended thereafter. So, the Declarations we've inherited do not and will never show parking space assignments. And for the reasons I have stated, we will not propose an amendment with this information. It's unnecessary and actually a detriment as we see it.

All parking spaces are assigned: there are no common spaces for the use of the first guy that comes along. Furthermore, the Developer retained the right to sell unassigned spaces until they were all sold and regardless of whether he had retained ownership of any condominium units. There is no language denying him this privilege or terminating it once his last condo was sold. Except for the Declarant, however, all private owners must

now hold title to a condo in order to retain title to a parking space.

You are not understanding the parking space transaction referenced in our Board minutes. The Developer was selling his remaining spaces to a private homeowner--as he has every right to do--and allocating a large percentage of the proceeds to the Association. We did not own the spaces originally, we paid no money for them, and we had no legal right to any of the proceeds. The money will be used to repaint the balcony railings and avoid any conflict over who was responsible for that cost. The Board reviewed the details of this matter and approved it. In truth, we might have received NO compensation otherwise, and you don't look a gift horse in the mouth.

I'm not revisiting the role of the Declarant and what he has been entitled to since he relinquished operational control. It's history at this point, and we have more important matters to deal with.

Your characterization of the Declarations (a "mess"), our need to change them, the situation with parking spaces, etc. are largely MIS-characterizations. I'm not going into any further debate on these subjects, and I don't need your advice on how I do my job. If you want to continue this pointless debate, I suggest you put your requests in writing in the Board letter drop box. And if you have a good idea that your request will not be met--like the private parking space assignments--you might as well have your attorney send it on his letterhead.

KZ

Quoting Betty Cantrell <bettycan@insightbb.com>:

Kevin,

I am requesting the information after reviewing the Indiana Statutes. There is no mention of a privacy issue when it comes to the limited common area (parking spaces) in the statute. It clearly states; IC 32-25-7-1 Recording declaration contents. Sec.1 (a) (4) A description of the limited common areas and facilities, if any, stating to which condominium units their use is reserved. (I am not requesting names) I would interpret that to mean all the parking spaces in the regime and the unit number that the space is assigned to MUST be, and should have been in the past, a part of our personal declaration documents. I would

also interpret the statute to be of face value, if it is a limited common area, it must be assigned to a unit, I would like a copy for my records, if it is not assigned to a unit then it is a common area much like the pool, exercise room and storage areas. How they are used or made accessible to all owners is determined by the rules set forth by the Board.

Am I correct to say that there has not been a developer since he turned over control to the association? At that time, Alan Feinsilver became an owner just like us within the regime but he was granted special privileges to maintain a sales office only (your choice). Special privileges can be granted but certainly he became no different than any other owner, his declarant status and control was forfeited. If the unsold parking spots were not assigned to his units and duly recorded before he turned over the regime, then I think he goofed. I don't think you can't have your cake and eat it too. When he turned it over, all reference to a declarant or developer should have been purged from our governing documents to avoid any questionable interpretation.

Our Declaration has been proven to be a mess in the courts. He became a phantom. Know what I mean? After reading the most recent minutes on the board downstairs, I am concerned that the Board is considering buying parking spots or making a trade off with Alan for them. I think there should be a meeting of the owners to discuss the matter of our governing documents and the actions that you are considering before you make any decisions. Parking spots have been a thorn in a lot of people's side for a long time. I think you should step carefully, you have a fiduciary duty to protect the best interest of the members. Have you consulted an attorney (other than Alan F.) about our governing documents since the turnover? It could be expensive but not nearly as expensive as a homeowners dispute if there is a problem. Betty C.

From: kzipperle@win.net
To: "Betty Cantrell" <bettycan@insightbb.com>
Cc: [Former property manager]
Sent: Monday, January 29, 2007 3: 10 PM
Subject: Re: Concerning our limited common areas-Parking spaces

Betty,

I can provide you with information about parking provided that it does not compromise the privacy of individual homeowners. In

fact, that's also a security issue. It's why we are in the process of removing condominium unit number signage from surface parking spaces.

Now that the Developer has agreed to sell his remaining parking spaces, we have two broad classes of parking: (1) Association spaces, and (2) spaces owned by condo unit owners. After the aforementioned Developer sale is completed, there will be no more unassigned spaces. I can give you a list of the spaces under category (1) above, and by elimination, you will know the spaces under (2). Hopefully, that's acceptable.

Also to clarify, the Association spaces are considered the property of the Association, with usage to be determined exclusively by the Board of Directors and administered through our management office. They are NOT to be used by individual homeowners without expressed permission in advance. Enforcement will be as with other unauthorized parking violations, e.g., ticketing and towing. Further it should be noted that all spaces under the control of the Association were transferred WITHOUT CHARGE by the Declarant.

The statute which you cite references information required at the time of recording. Prior to the time of sale of each condominium, spaces were held by the Declarant, without specific assignment. Therefore, we must assume that the recording requirements were met. Please note that our governing documents as well as the First & Second Amendment were prepared by Wyatt, Tarrant & Coombs, a well respected law firm.

Finally, I have read through the 1st and 2nd Amendments. They obviously contain references to the Declarant and his abilities to deal and assign spaces. In my opinion, it is self-evident that some portions of the Declarations, Bylaws, and amendments are no longer relevant with the transition of the Property from a Developer managed to a homeowner managed property. Unless there are impediments to leaving things as they are, we do not plan to go back and amend these documents in any systematic way to account for this. These two amendments do not bear directly on our day-to-day operations and, in my opinion, do not require our attention. To be sure of my position, however, I will refer this matter to the Board at our next opportunity for their confirmation.

Thanks for your input, and let me know if the parking information under paragraph two above is what you're looking

for. If not, it might help me better to understand what it is you're after and why you're after it. Thanks again. KZ

Quoting Betty Cantrell <bettycan@insightbb.com>:

Kevin, I am requesting a copy of all parking spaces (limited common areas) that are assigned for each unit here at the Harbours, also the ones that are not yet assigned. I am making this request in reference to Indiana Statute IC 32-25-7-1 Recording Declaration; contents. Sec.1 (a) "The Declaration must include the following: (4) A description of the limited common areas and facilities, if any, stating to which condominium units their use is reserved".

Who would I contact to obtain this documentation? The Community Director or our Secretary?

I am not referring to records of deeds or transfers of the parking spaces that are available the court house. The statute clearly states that it must be a part of our Declaration and I assume should be included as part of our Association documents. I would like for you to address the fact that the First and Second Amendment to our Declaration may no longer be valid and should be amended as soon as possible, with the assignments included. If the parking spaces are not assigned, I would assume that they are owned by the association and I think everyone should know which ones they are and for what purpose they are being used.

Thank you for looking into this matter.
Betty Cantrell