

TO: BIG CANOE PROPERTY OWNERS ASSOCIATION

**MEMBER REQUEST & DEMAND TO INSPECT, EXAMINE & COPY THE COMPLETE
MEMBER LIST *(the name and address of all members, in alphabetical order by class,
showing the number of votes each member is entitled to cast)***

Submitted by: david hopkins
Property Owner Lot # 4002
10887 Big Canoe; Big Canoe, GA 30143
themtnsvoice@aol.com

request date: Wednesday December 2, 2020

To: Scott Auer / Big Canoe General Manager
sauer@bigcanoepoa.org / (706) 268-2400
cc: Big Canoe POA Board Of Directors

OUTLINE

SECTION 1. INTRO SUMMARY	Pages 1
SECTION 2. LEGAL REFERENCES	Pages 2, 3
SECTION 3. BACKGROUND	Page 3
SECTION 4. SPECIFIC REQUESTS & DEMANDS	Page 3, 4
SECTION 5. PURPOSE OF REQUEST	Page 4
SECTION 6. SPECIAL INSTRUCTIONS, REMITTANCE, CONTACT:	Page 4, 5, 6

SECTION 1. INTRO SUMMARY

Georgia Law, and Big Canoe POA By-Laws require that members be furnished with *"a list of the name and address of all members, in alphabetical order by class, showing the number of votes each member is entitled to cast"* within 2 days of the Notice of Meeting, in this case the upcoming Dec 5 Annual Meeting. Since this will be an electronic Meeting, the information must be provided in electronic format (i.e. PDF or similar). Further, the POA is mandated by law to provide list access instructions AT THE TIME of the Meeting Notice (November 6, 2020). This was not done, and historically the POA has ignored their legal obligations over the years to provide Members with this legally mandated member list information. I am DEMANDING THIS INFORMATION be prepared for dissemination to Members according to law at the upcoming Meeting; that instructions be issued to ALL Members on how to access the information; and I have requested an immediate copy myself for the legally stated purpose of communication with other members concerning the meeting. I have further more DEMANDED IN ACCORDANCE WITH THE BY-LAWS that, **If the requirements of this Section are not substantially complied with, the meeting be adjourned until the requirements are complied with.**

SECTION 2: LEGAL REFERENCES

Pursuant to O.C.G.A. § 14-3-1601. Required corporate records

(c) A corporation or its agent shall maintain a record of its members in a form that permits preparation of a list of the name and address of all members, in alphabetical order by class, showing the number of votes each member is entitled to cast.

(d) A corporation shall maintain its records in written form or in another form capable of conversion into written form within a reasonable time.

Pursuant to O.C.G.A. § 14-3-720. Membership list for meeting

(a) After fixing a record date for a meeting, a corporation shall prepare an alphabetical list of the names of all its members who are entitled to notice of the meeting. The list must show the address of and number of votes each member is entitled to vote at the meeting. Nothing contained in this Code section shall require the corporation to include e-mail addresses or other information for delivery of electronic transmissions on such list.

(b) The list of members must be available for inspection by any member for the purpose of communication with other members concerning the meeting, beginning two business days after notice is given of the meeting for which the list was prepared and continuing through the meeting: (1) on a reasonably accessible electronic network, provided that the information required to gain access to such list is provided with the notice of the meeting or upon request or (2) during ordinary business hours at the corporation's principal office or at a reasonable place identified in the meeting notice in the city where the meeting will be held. In the event that the corporation makes the list available on an electronic network, the corporation may take reasonable steps to ensure that such information is available only to members of the corporation. A member, a member's agent, or a member's attorney is entitled on written demand to inspect and, subject to the limitations of subsection (c) of Code Section 14-3-1602 and Code Section 14-3-1605, to copy the list, at a reasonable time and at the member's expense, during the period it is available for inspection.

(c) If the meeting is to be held in person, the corporation shall make the list of members available at the meeting, and any member, a member's agent, or member's attorney is entitled to inspect the list at any time during the meeting or any adjournment. If the meeting is to be held solely by means of remote communication, then the list shall be open to the examination of any member during the duration of the meeting on a reasonably accessible electronic network, and the information required to access such list shall be provided with the notice of the meeting.

Pursuant to the Big Canoe By-Laws (2006, 3rd Restated)

Article II. Meetings of Members / 2.6. List of Members.

A complete list of Members entitled to vote at a meeting of the Members, arranged in alphabetical order with the number and type of votes held by each, shall be prepared

by the Secretary or other officer of the POA having charge of membership ledgers, and shall be produced and kept open at the time and place of the meeting and during the whole time of said meeting shall be open to the examination of any Member. If the requirements of this Section have not been substantially complied with, the meeting shall, on the reasonable demand of any Member in person or by proxy, be adjourned until the requirements are complied with. If no such demand is made, failure to comply with the requirements of this Section shall not affect the validity of any action taken at such meeting.

Pursuant to the Nov 6, 2020 Big Canoe POA Notice to the Members of the Big Canoe POA "NOTICE OF ANNUAL MEETING; BIG CANOE PROPERTY OWNERS ASSOCIATION, INC.; DECEMBER 5, 2020 AT 10 A.M. VIA YOUTUBE BROADCAST"

EXCERPT:

To the members of the Big Canoe Property Owners Association, Inc., **notice is hereby given that the Annual Meeting** of members of the Big Canoe Property Owners Association, Inc. ("Association") will be held on Saturday, December 5, 2020 at 10 a.m., via a Virtual Meeting at the following YouTube link:
<http://live.bigcanoepoa.org/youtube>.

.....
By order of the Board of Directors, **November 6, 2020.**
~~ Wayne Crawford - Secretary

SECTION 3. BACKGROUND:

As referenced in the preceding "Section 2 Legal References", the POA is required to make accessible for inspection, examination and copy the Big Canoe POA Members List, **which shall include "a complete list of Members entitled to vote at a meeting of the Members, arranged in alphabetical order with the number and type of votes held by each"**.

To the best knowledge of this Property Owner / Member, the POA has **NOT** in the past complied with their requirement to provide access to the "Member List" as is required by law.

In regards to the Annual 2020 Meeting, the POA is already in disregard of its legal responsibilities, as it has failed to provide members with notice of information for how to access the legally required information. Pursuant to O.C.G.A. § 14-3-720(c), *"if the meeting is to be held solely by means of remote communication, then the list shall be open to the examination of any member during the duration of the meeting on a reasonably accessible electronic network, and the information required to access such list shall be provided with the notice of the meeting"*

SECTION 4: SPECIFIC REQUESTS & DEMANDS:

(1) I DEMAND that the POA immediately prepare "a list of the name and address of all members, in alphabetical order by class, showing the number of votes each member is entitled to cast" and design a method to allow the list to *"be open to the examination of any member during the duration of the*

meeting on a reasonably accessible electronic network". I further DEMAND that "the information required to access such list" immediately be distributed to all eligible Members of the Big Canoe Property Owners Association, and that said information and access instructions be prominently shared with members attending and viewing the ANNUAL MEETING OF THE BIG CANOE PROPERTY OWNERS ASSOCIATION, INC., ON DECEMBER 5, 2020 AT 10 A.M. VIA YOUTUBE BROADCAST.

(2) IN THE EVENT THAT THE PREVIOUS DEMAND IS NOT MET, and the POA cannot, does not, or will not make accessible to members "a list of the name and address of all members, in alphabetical order by class, showing the number of votes each member is entitled to cast", **then I DEMAND THAT THE ANNUAL MEETING OF THE BIG CANOE PROPERTY OWNERS ASSOCIATION, INC., ON DECEMBER 5, 2020 AT 10 A.M. VIA YOUTUBE BROADCAST** "**BE ADJOURNED UNTIL THE REQUIREMENTS ARE COMPLIED WITH**" as is my right as a member pursuant to Section 2.6 of the By-Laws of the Big Canoe Property Owners Association.

(3) Pursuant to O.C.G.A. § 14-3-720 (b), a members right to inspect and copy begins "two business days after notice is given of the meeting", which in this case was on Nov. 6, 2020. As such I request an immediate copy of the "list of the name and address of all members, in alphabetical order by class, showing the number of votes each member is entitled to cast" be provided to me. The records may be emailed to themtnsvoice@aol.com.

*Due to the failure of the POA to comply with legal time requirements, and 24 days having already lapsed since the time of legally required access, **time is of the essence in these requests.***

SECTION 5. PURPOSE OF REQUEST:

I am making this request in good faith, for the purpose of communication with other members concerning the meeting.

SECTION 6. SPECIAL INSTRUCTIONS & CLARIFICATIONS:

In regards to the "list of the name and address of all members, in alphabetical order by class, showing the number of votes each member is entitled to cast" I direct your attention to the following:

(A) There are 5 Classes of Member, defined as Class A, Class B, Class C, Class D, and Class E. ALL of these classes of members would have voting rights at an Annual Meeting such as is the subject of this Notice. **Please Note that this is a LEGAL REQUIREMENT** on the part of the POA to produce this complete list of Members and their addresses, by Class, including the Total Number of Votes they have.

In regards to Class B, C, D, and E members it should be noted that there has been substantial

confusion in my experience, on the part of the POA Membership, as to what constitutes a member of each class, and what voting rights for each exist. As such I wish to make the following clarifications:

CLASS A Members, and their voting rights, should be **completely** identified, even if a member entity is the POA, The County (Pickens or Dawson), or the "The Company" (*Big Canoe Co. / Developer*). Please note that the POA, Pickens County, Dawson County, and the Big Canoe Company ALL own substantial numbers of LOTS within the Community. Each and every one of these Lot Ownerships constitute a Voting Right, even if those rights are not being exercised, and as such are legally required to be included in the Member List, which should contain the "list of the name and address of all members, in alphabetical order by class, showing the number of votes each member is entitled to cast". Furthermore, if a member has rights in multiple Classes (*ie. the Developer has Class D rights, but also Class A Lots*) then those "number of votes each member is entitled to cast" should be listed by their names separately by Class.

CLASS B Members, and their voting rights, should be **completely** identified, even if a member entity is a Condo Association (*i.e. Disharoon Ridge Condo Association, Petit Crest Villas Owners Assoc., Chestnut Knoll Conominium Assoc., Hillside at Cox Mountain Condo Assoc., etc*)

CLASS C Members, and their voting rights, should be **completely** identified, even if a member entity is the POA itself (*example being Pickens County Parcel 048 031 004 located at the corner of Cove Rd and Steve Tate Hwy*), or the Developer (*example being Pickens County Parcel 046A 356, still owned by the Big Canoe Company*), or a Utility (*example being all the various Utilities Inc properties*).

CLASS D Members, and their voting rights, should be **completely** identified. This should include ALL voting rights of "The Company" (*Big Canoe Co. / Developer*). In the past the Class D Member had 50% of the entire vote +1 as specified by the Covenants. The 2005 Covenant changes removed the "Supermajority" Vote from the Company, but did not define "Supermajority". As such it has been unclear for many years as to whether that meant all of the 50% + 1 as was originally covenanted to the Company was removed, or whether it was just the "+1" removed, leaving 50% of the entire Membership Vote controlled by the Company. PLEASE NOTE that the Member List and associated voting rights, that are **legally required** to be provided **should reflect EXACTLY what the total voting rights of the CLASS D Member are**.

CLASS E Members, and their voting rights, should be **completely** identified, even if a member entity is the POA (*i.e. the 175.46 acres in High Gap that are under the covenants, but not deeded as Common Property*), or Utilities Inc (*i.e. the covenanted, but undeveloped and unrestricted lands of Blackwell Creek that were fraudulently taken from Property Owners in 2016*). This should also include the Waterford Mountain Properties. Lastly, the records of the POA Voting and Member History should be

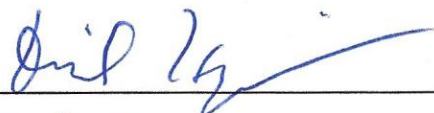
searched (*specifically but not exclusively in the years from 2000 – 2005*) to see if any of the Potts Mountain Acreage was ever voted as CLASS E Member Voting Rights, as it is believed that votes were cast during that time in such manner. This property (*1,337 Acres constituting "Potts Mtn"*) was ILLEGALLY released from under the POA Covenants in a document filed at the Pickens County Courthouse on Dec 4, 2017, and located in Deed Book 1134; Pgs 425 - 427. The Property was unilaterally released from the Covenants (ILLEGALLY) by the singular action of the Developer (executed by W.M. Self Jr, acting as Managing Member of the Big Canoe Company.)

A copy of that illegal release of Potts Mountain from the Covenants can be found online at:

http://bigcanoe.themountainsvoice.com/wp-content/uploads/2020/12/PottsMtn-2017-11-30_ReleaseFromCovenantsAndDeclarations.pdf

PLEASE NOTE that **ALL CLASS A, B, C, D, and E Members must be legally listed and their total voting rights provided**, even if they have never exercised those rights, or regardless of whether they choose not to exercise their rights, whether that be by board decision, or inaction, or any other reason – **they still must be listed according to the legal requirements of providing the Member List** that includes "the name and address of ALL members, in alphabetical order by class, showing the number of votes each member is entitled to cast".

Sincerely,



sign

12-02-2020

date

- david hopkins

Property Owner Lot # 4002

10887 Big Canoe

Big Canoe, GA 30143

themtnsvoice@aol.com < method of electronic communication