

## FORMAL NOTICE OF CONCERN REGARDING BIG CANOE TRADEMARK APPLICATION

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From: themtnsvoice@aol.com (themtnsvoice@aol.com)

To: tramsey@brawwlaw.com; ahigdon@brawwlaw.com; sbanner@brawwlaw.com

Date: Friday, August 1, 2025 at 04:18 PM EDT

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### FORMAL NOTICE OF CONCERN REGARDING TRADEMARK APPLICATION

**TO: Legal Counsel for Big Canoe Property Owners Association, Inc. (BCPOA)**

**RE: USPTO Serial No. 99196165 — “BIG CANOE BROKERAGE”**

**Date:** August 1, 2025

**To:**

Timothy Jeter Ramsey ([tramsey@brawwlaw.com](mailto:tramsey@brawwlaw.com))

Ann Higdon ([ahigdon@brawwlaw.com](mailto:ahigdon@brawwlaw.com))

Stewart Banner ([sbanner@brawwlaw.com](mailto:sbanner@brawwlaw.com))

Bodker, Ramsey, Andrews, Winograd & Wildstein, P.C.

3490 Piedmont Road NE #1400, Atlanta, GA 30305

**From:** David Hopkins

*Member of the Big Canoe Property Owners Association / Lot 4002*

10887 Big Canoe, Big Canoe, GA 30143

[themtnsvoice@aol.com](mailto:themtnsvoice@aol.com)

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## I. PURPOSE OF NOTICE

This letter serves as a formal notice of potential factual inaccuracies, statutory compliance issues, and nonprofit governance concerns related to the trademark application for “BIG CANOE BROKERAGE,” filed with the USPTO under Serial No. 99196165 on May 21, 2025, by your client, the Big Canoe Property Owners Association, Inc. (“BCPOA”). I respectfully submit this communication to alert you and your client to material risks, both procedural and substantive, that may arise from the application as filed.

At this time, this is not intended as a threat of litigation or a formal legal demand, but rather as a good-faith notice seeking clarification and transparency prior to any escalation to regulatory, trademark, or tax authorities.

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## II. SUBSTANTIVE ISSUES OF CONCERN

### A. Mischaracterization of Trademark Ownership and Use

The application (Filing Basis: Section 1(a)) declares that **BCPOA is the rightful owner** of the mark and that it has been used in commerce since **at least as early as September 20, 2017** in connection with **real estate brokerage services**.

However, the accompanying specimen and declaration evidence explicitly reference and show

use by:

- **Big Canoe Brokerage, LLC**, a separate Georgia entity owned by private broker Mike Rhodes
- The website [www.bigcanoe.com](http://www.bigcanoe.com), also privately operated

There is **no indication** in BCPOA meeting records, public filings, or operational disclosures that BCPOA itself has ever engaged in real estate brokerage services or has owned the “BIG CANOE BROKERAGE” mark, nor does BCPOA hold a Georgia Real Estate Broker license.

**Concern:** This creates a serious question as to whether BCPOA:

- Rightfully owns or controls the mark as used in commerce;
- Filed a valid **Section 1(a)** application with appropriate “use in commerce”; and
- May have made a material misstatement to the USPTO, subject to the penalties of **18 U.S.C. § 1001** and relevant TTAB rules.

## **B. Conflict with Nonprofit Status**

BCPOA is organized as a Georgia nonprofit under O.C.G.A. § 14-3-101 et seq., and it operates as a **501(c)(4) community homeowners' association**. Engaging in the acquisition of trademarks for **commercial real estate brokerage services**—without any corresponding service offering or revenue—appears to be:

- Beyond the scope of the nonprofit’s authorized purposes;
- A potential violation of the IRS’s **private benefit prohibition** and “commerciality” doctrine for exempt organizations;
- A misuse of member funds for non-mission-aligned activity.

## **C. Financial Expenditures for Private Benefit**

Statements made at the July 31, 2025 BCPOA Board Meeting (timestamp ~29:41) suggest that over **\$575,000 in community funds** are being allocated for trademark acquisition and legal work—including for real estate marks—under the terms of an undisclosed **sale or license agreement**.

If BCPOA is incurring these costs in order to secure intellectual property for the benefit of **Big Canoe Brokerage, LLC** or any other private actor, this may constitute:

- An **inurement of assets** in violation of nonprofit law (O.C.G.A. § 14-3-830, 14-3-202);
  - A breach of the Board’s fiduciary duties to members;
  - A **failure of exempt purpose** under 501(c)(4) review.
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### III. REQUEST FOR CLARIFICATION

To allow the public and the community of property owners to avoid premature escalation, we respectfully request clarification of the following:

1. On what basis does BCPOA claim it is the owner of the “BIG CANOE BROKERAGE” mark?
2. What evidence does BCPOA possess to support that **it**, not Big Canoe Brokerage, LLC, used the mark in commerce since 2017?
3. Is BCPOA currently licensed as a real estate brokerage or does it have concrete plans to enter that market?
4. What public benefit, if any, does BCPOA claim will be realized from its acquisition of the “BIG CANOE” real estate brokerage and services trademark already obtained, and for “BIG CANOE BROKERAGE” trademark which is under application?
5. What are the terms of the license agreement referenced by the Board, and does it involve any assignment or eventual transfer of this “BIG CANOE BROKERAGES” mark to third parties?

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### IV. POTENTIAL CONSEQUENCES

While this letter is not a formal opposition or regulatory complaint at this stage, please be advised that unresolved concerns may lead to any or all of the following:

- Filing of a **Letter of Protest or Opposition** under 37 C.F.R. § 2.101 with the USPTO
- Submission of a **Form 13909** to the Internal Revenue Service for review of potential private benefit
- Complaint under **Georgia Nonprofit Law** for improper governance or asset misuse
- Escalation to BCPOA members seeking redress via fiduciary challenge or Board action

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### V. CLOSING

This communication is submitted in good faith, in hopes of receiving a cooperative response and clarification. No accusation is made at this time of knowing misconduct, but the factual record as publicly available appears inconsistent with federal trademark law and nonprofit obligations.

I respectfully request a response within ten (10) calendar days. If further clarification is needed from me, I welcome a professional dialogue.

**Sincerely,**  
David Hopkins

*Member of the Big Canoe Property Owners Association / Lot 4002*

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