

## FORMAL TRADEMARK NOTICE TO THE BOARD OF DIRECTORS

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Date: Friday, August 1, 2025 at 04:16 PM EDT

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### FORMAL NOTICE TO THE BOARD OF DIRECTORS

**Big Canoe Property Owners Association, Inc. ("BCPOA")**

**RE: Potential Legal and Governance Violations Related to Trademark Application – “BIG CANOE BROKERAGE” (Serial No. 99196165)**

**Date:** August 1, 2025

**From:** David Hopkins

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

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## I. PURPOSE OF THIS NOTICE

This letter is a formal notice to the Board of Directors of the Big Canoe Property Owners Association, Inc. (“BCPOA”) regarding serious concerns surrounding the trademark application filed by BCPOA with the United States Patent and Trademark Office (USPTO) for the mark **“BIG CANOE BROKERAGE”** (Serial No. 99196165), submitted on **May 21, 2025**.

This is not a notice of legal action. However, in the interest of transparency and fiduciary duty, this notice is intended to alert the Board that the application—as filed—may involve:

- Material misrepresentations to the USPTO
  - Actions inconsistent with BCPOA’s non-profit mission and legal obligations
  - The improper expenditure of member funds for purposes that may benefit a private party
  - A breach of governance and transparency owed to members of the Association
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## II. OVERVIEW OF THE TRADEMARK APPLICATION

The application filed by BCPOA contains the following critical representations:

- **Filing Basis:** Section 1(a) — Use in Commerce
- **Mark Claimed:** “BIG CANOE BROKERAGE”
- **Services Listed:** “Real estate brokerage” (International Class 036)

- **First Use in Commerce Claimed: November 30, 2017**
- **Specimen Submitted:** A website screenshot of [www.bigcanoe.com](http://www.bigcanoe.com), operated by **Big Canoe Brokerage, LLC**, a **private, for-profit brokerage** owned by Mike Rhodes
- **Owner Listed:** Big Canoe Property Owners Association, Inc. (nonprofit corporation)

It is not publicly evident—and has never been represented to members—that BCPOA has operated any real estate brokerage service, nor does it hold a Georgia real estate broker's license. The applicant appears to have claimed **use of a mark that was not its own**, and which has long been associated with an unrelated private party.

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### III. GOVERNANCE AND LEGAL CONCERNS

#### A. Factual Misstatements in the USPTO Filing

Filing under Section 1(a) of the Lanham Act (15 U.S.C. § 1051(a)) requires actual, bona fide use of the mark in commerce **by the applicant** in connection with the listed services. The declaration submitted to the USPTO affirms, under penalty of perjury (18 U.S.C. § 1001), that BCPOA:

- Is the rightful owner of the mark
- Has used the mark in commerce in connection with real estate brokerage services since at least 2017
- Is not aware of any other party with rights to the mark

These representations appear factually **inaccurate** or **materially misleading**, since:

- The specimen reflects use by **Big Canoe Brokerage, LLC**, not BCPOA
- There is **no evidence BCPOA has used the mark** in any commerce
- It is **well-known** within the community that **Big Canoe Brokerage**, operating under **bigcanoe.com**, is a separate entity owned by Mike Rhodes

If BCPOA had no actual use of the mark at the time of filing, this could result in the **rejection or cancellation** of the application and expose BCPOA to allegations of **fraud on the USPTO**.

#### B. Violation of Nonprofit Purpose and Member Trust

BCPOA is a Georgia nonprofit corporation operating under O.C.G.A. § 14-3-202 and 501(c)(4) of the Internal Revenue Code. As such, its operations must further a public or community-oriented purpose. Filing for and holding a **commercial real estate brokerage trademark** is **inherently outside** the scope of a residential property owners association—particularly when:

- BCPOA is not a real estate service provider
- The mark historically and commercially belongs to a private, unrelated for-profit entity

- Members were never asked to vote on the purpose or authorization of this filing

This may constitute:

- **Use of nonprofit assets for private benefit**, in violation of IRS restrictions
- A breach of fiduciary duty by the Board under **O.C.G.A. § 14-3-830**
- A possible “commerciality” violation that risks BCPOA’s exempt status

### C. Improper Use of Member Funds

At the July 31, 2025 Board Meeting, the community was informed that \$148,000 in legal fees had already been spent on the Trademark issue, with almost \$30,000+ more still estimated to come.

Key Concerns:

- A total of **\$175,000+ in legal expenditures** has been or is anticipated to be spent on trademarking efforts
- This is in addition to \$400,000+ on marks not aligned with the nonprofit’s purpose (e.g., “real estate,” “restaurants,” “apparel,” “fabrics”)
- There is **no evidence of community approval**, and governing documents do not authorize speculative or third-party commercial legal efforts

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## IV. REQUEST FOR DISCLOSURE AND CLARIFICATION

To allow for a constructive, transparent resolution, I respectfully request that the Board respond to the following:

1. **What is BCPOA’s legal or operational basis** for claiming it has used the “BIG CANOE BROKERAGE” mark in commerce since 2017?
2. Does BCPOA hold, or intend to obtain, a **real estate broker license** in Georgia?
3. **What is the current or planned business activity** of BCPOA that justifies this trademark filing?
4. What are the **terms of the “license agreement” or “sale agreement”** referenced in the July 31 Board meeting?
5. How do these actions comply with BCPOA’s nonprofit charter, IRS obligations, and governing documents?
6. **Who authorized** the use of member funds for this trademark application, and under what authority?
7. What other Trademark Applications are underway, or planned, in regards to using the

“Big Canoe” name in relation to “restaurants,” “apparel,” or “fabrics”?

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## V. NEXT STEPS AND RESERVATION OF RIGHTS

This is a notice, not a legal action. However, in the absence of adequate clarification, I and other concerned members reserve the right to:

- Petition the Board for redress
- Pursue disclosure of legal contracts, invoices, and trademark correspondence under applicable nonprofit statutes
- Submit a **Letter of Protest** to the USPTO regarding the application’s validity
- Refer the matter to the IRS or Georgia Secretary of State if nonprofit compliance appears to be violated

I respectfully request a written response within **10 calendar days** to avoid formal regulatory involvement.

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**Respectfully,**

David Hopkins

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

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