

WILLIAM T. TUGWELL, IV, KARRI  
TUGWELL, HUDSON TABOR, V,  
MARGA TABOR, MARY PIKE, MIKE  
DEMAREE, MICHAEL PENDARVIS  
AND CHERISH PENDARVIS

SUIT NO. 130,608 DIVISION "E"  
  
21ST JUDICIAL DISTRICT COURT

VERSUS

THE LAKE AT BELLE TERRE  
HOME OWNERS ASSOCIATION, INC.  
and JEFF ZETTLEMOYER

PARISH OF LIVINGSTON  
  
STATE OF LOUISIANA

**RESTATED SUPPLEMENTAL PETITION  
FOR DECLARATORY JUDGMENT**

NOW INTO COURT, through undersigned counsel, come William T. Tugwell, IV, Karri Tugwell, Hudson Tabor, V, Marga Tabor, Mike Demaree, Michael Pendarvis and Cherish Pendarvis, who desire to supplement the original Petition for Declaratory Judgment filed herein and to restate the Supplemental Petition filed herein on May 26, 2011 as follows:

1.

By adding Paragraph 30 to the Petition as follows:

"30.

After the filing of this suit, the purported officers of the Association caused liens to be filed against the owners of several lots in the subdivision, including the lots owned by petitioners, for invalid Association assessments and late fees, the liens being summarized as follows:

- (a) Lien against Lot No. 31 owned by William and Karri Tugwell recorded on November 22, 2010, as MOB 1832, Page 628, File No. 732655 in the amount of \$340.00;
- (b) Lien against Lot No. 37 owned by Hudson and Marga Tabor recorded on August 15, 2011, as MOB 1903, Page 183, File No. 750391 in the amount of \$471.00;
- (c) Lien against Lot No. 38 owned by Michael Demaree recorded on August 15, 2011, as MOB 1903, Page 189, File No. 750394 in the amount of \$301.00;
- (d) Lien against Lot No. 39 owned by Michael and Cherish Pendarvis recorded on August 15, 2011, as MOB 1903, Page 191, File No. 750395 in the amount of \$476.15."

2.

By adding Paragraph 31 to the Petition as follows:

“31.

For the reasons set forth in the original Petition, and because the liens were not filed and served in accordance with Louisiana R.S. 9:1145, *et. seq.*, petitioners aver that the referenced liens are illegal, invalid and unenforceable, and seek a declaration from this Court that the liens are illegal, invalid and unenforceable, and ordering the defendant Association to cause each lien to be cancelled from the Mortgage Records of Livingston Parish, or, alternatively, that a permanent injunction issue against their enforcement.”

3.

By adding Paragraph 32 to the original Petition as follows:

“32.

A purported annual meeting of the members of the Association was held on November 3, 2010. Prior to this meeting, the purported officers of the Association sent to the members a newsletter dated October, 2010 which included a ballot setting forth the purported Board of Directors and its officers along with four (4) resolutions to be voted upon, a copy of this newsletter and ballot being attached hereto as Exhibit ‘A’.”

4.

By adding Paragraph 33 to the original Petition as follows:

“33.

Prior to this purported annual meeting, resident Cheryl Hensley, representing herself to be an officer of the Board (apparently appointed by Jeff Zettlemyer without any election), solicited proxies from members of the Association by making disparaging remarks about this pending lawsuit and the residents who had filed this lawsuit against the Association while at the same time supporting the illegal acts taken by the purported officers of the

Association (as described in the original Petition filed herein) prior to the solicitation of proxies.”

5.

By adding Paragraph 34 to the original Petition as follows:

“34.

Thereafter, at the purported 2010 annual meeting of the Association, Cheryl Hensley attempted to use these proxies for the purpose of voting them in favor of ratification of ‘everything that had been done for LABT back through 2008’ by purported president Jeff Zettlemoyer and his colleagues on previous purported boards. Petitioners aver that this purported ratification, which occurred at a meeting where approximately 30 persons were actually present in person, some being couples owning one (1) lot, is invalid for the following reasons:

- (a) Actions that are taken by persons who are not in fact duly elected officers and directors of a non-profit corporation cannot be ratified if they are illegal;
- (b) Actions that are taken by persons who are duly elected officers and directors of a non-profit corporation cannot be ratified if they are illegal;
- (c) The actions that were purportedly ratified at this meeting are prohibited by the Association’s community documents, including the Articles of Incorporation, Bylaws and Restrictions for the subdivision;
- (d) Ratification of prior purported actions of purported officers and directors of the Association prior to this purported annual meeting was not included on the ballot, nor on the agenda, that was disseminated to the members prior to the meeting;
- (e) The minutes of the meeting do not reflect that a motion to ratify was made nor do the minutes specify the actions that were purportedly ratified;
- (f) Other reasons to be developed during discovery or presented at the trial of this matter.”

6.

By adding Paragraph 35 to the original Petition as follows:

“35.

Further, at this purported annual meeting, purported officer Cheryl Hensley retired to a back room out of the main meeting room to purportedly count the

votes, including the proxies that she had solicited, with no other person present to verify the count.”

7.

By adding Paragraph 36 to the original Petition as follows:

“36.

The ballot circulated to the members of the Association prior to the purported annual meeting sets forth that the president is Kevin Dees (unopposed) and vice president is Cheryl Hensley (unopposed). Neither of these directors were elected to these positions; rather, they were apparently appointed by Jeff Zettlemyer (who had resigned in or about September, 2010) or some prior purported officer of the Association. Since no elections for president and vice president were held at the purported 2010 annual meeting, petitioners aver that the president and vice president offices of the Board should be declared vacant and new elections ordered.”

8.

By adding Paragraph 37 to the original Petition as follows:

“37.

For the reasons set forth herein and in the prior Petition, Petitioners aver that the vote to continue annual assessments at \$150.00 is illegal, invalid and unenforceable. The purported officers of the Association have further sought to impose these fees on the owners for the year 2011. Therefore, petitioners seek a declaration that the annual fees set at \$150.00 for 2011 is illegal, invalid and unenforceable.”

9.

By adding Paragraph 38 to the original Petition as follows:

“38.

On November 22, 2010, the Association caused to be filed two (2) documents purporting to amend the Restrictive Covenants of the subdivision described as follows: (a) COB 1088, Page 533, File No. 732652; and (b) COB 1088, Page 531, File No. 632651, all of the official records of Livingston Parish, Louisiana. These

acts attempt to amend the original Restrictive Covenants of the subdivision to make them more onerous and to establish new restrictions that never existed before.”

10.

By adding Paragraph 39 to the original Petition as follows:

“39.

These purported amendments and new restrictions were not done in accordance with the terms of the original Restrictions. Further, upon information and belief, these purported amendments and new restrictions, as well as the prior ones purported to be enacted at the 2008 and 2009 annual meetings, were not done in accordance with the terms of Louisiana R.S. 9:1141.6B or R.S. 9:1141.7. The documents recorded do not have sufficient substance and are not in proper form to be valid and enforceable. Finally, notice of these purported amendments and new restrictions was not given to the members of the Association until several weeks after the purported November annual meeting. Therefore, petitioners seek a declaration that these purported amendments and new restrictions as described above are illegal, invalid and unenforceable, and further seeking an Order of this Court that the Association cause them to be cancelled from the Mortgage Records of Livingston Parish. Alternatively, petitioners seek an injunction against their enforcement.”

11.

By adding Paragraph 40 to the original Petition as follows:

“40.

As allowed by Louisiana R.S. 9:1141.6D(1), each petitioner filed a “Statement of Owner” declining to be covered by the purported amendments and new Restrictions recorded on November 22, 2010. Petitioners did not obtain notice of the purported amendments and new restrictions until on or about this date. These statements were recorded within thirty (30) days of the recording of the purported amendments and new Restrictions. In the alternative, in the event that this Court determines that the purported amendments and new Restrictions recorded on November 22, 2010, are valid and enforceable, which is at all times denied, petitioners seek a declaration that these purported amendments and new Restrictions do not apply to them as they have complied with the law to ‘opt out’ of these purported amendments and new Restrictions.”

12.

By adding Paragraph 41 to the original Petition as follows:

“41.

In the Answer and Reconventional Demand filed by the defendant Association herein, specifically, Paragraph XXIX, the Association includes in the itemization of the amounts allegedly owed and secured by the liens they have filed and ‘additional late fee (\$1.00 per day)’. Petitioners are unaware of the source of this additional late fee as it is provided for nowhere in the community documents of the Association nor in the purported amendments to the building restrictions filed as referenced herein. Therefore, petitioners seek a declaration that the additional late fees of \$1.00 per day are illegal, invalid and unenforceable.”

13.

By amending the prayer of the original Petition to seek the following additional relief:

“VIII. Declaring that the liens described in Paragraph 30 of the Supplemental Petition are illegal, invalid and unenforceable and ordering the Association to cause them to be canceled from the Mortgage Records of Livingston Parish, or, alternatively, that a permanent injunction be entered against their enforcement;

“IX. Declaring that the purported ratification of “everything that had been done for LABT back through 2008” by purported president Jeff Zettlemoyer and his colleagues from previous purported boards is illegal, invalid and unenforceable;

X. Declaring that the offices of president and vice president of the Association are vacant and ordering new elections to be conducted properly in accordance with the Articles, Bylaws and Restrictive Covenants of the subdivision;

XI. Declaring that the vote to continue annual assessments at \$150.00 purportedly passed at the annual meeting of the Association’s members on November 3, 2010, is illegal, invalid and unenforceable;

XII. Declaring that the purported amendments to the Restrictions described in Paragraph 38 above are illegal, invalid and unenforceable and ordering that the Association cause them to be canceled from the Conveyance Records of Livingston Parish, or, alternatively, that a permanent injunction be entered against their enforcement; and;

XIII. In the alternative, in the event that the purported amendments to the Restrictions described in Paragraph 38 above are found to be valid and enforceable, petitioners seek a declaration that these amendments and new Restrictions do not apply to them as they have complied with R.S. 9:1141.6D(1).”

WHEREFORE, PETITIONERS PRAY for leave of Court to file this Restated Supplemental Petition and that after all due proceedings had there be judgment herein as requested in the original Petition and as supplemented by this Restated Supplemental Petition.

By Attorneys:

McCOLLISTER, McCLEARY & FAZIO  
A Professional Law Corporation  
11616 Southfork Avenue, Suite 302 (70816)  
Post Office Box 40686  
Baton Rouge, Louisiana 70835  
Telephone: (225) 292-8898

BY:   
Thomas D. Fazio - Bar Roll No. 16911

CERTIFICATE

I HEREBY CERTIFY that a copy of the above and foregoing Restated Supplemental Petition for Declaratory Judgment has been forwarded this day to the following:

Jeffrey K. Cody  
Shows, Cali, Berthelot & Walsh  
Post Office Drawer 4425  
Baton Rouge, Louisiana 7082  
Telephone: (225) 346-1461

by placing same into the United States mail, properly addressed and first-class postage prepaid.

Baton Rouge, Louisiana, this 16<sup>th</sup> day of September, 2011.

  
THOMAS D. FAZIO

WILLIAM T. TUGWELL, IV, KARRI  
TUGWELL, HUDSON TABOR, V,  
MARGA TABOR, MARY PIKE, MIKE  
DEMAREE, MICHAEL PNDARVIS  
AND CHERISH PNDARVIS

SUIT NO. 130,608 DIVISION "E"

21ST JUDICIAL DISTRICT COURT

VERSUS

PARISH OF LIVINGSTON

THE LAKE AT BELLE TERRE  
HOME OWNERS ASSOCIATION, INC.  
and JEFF ZETTLEMOYER

STATE OF LOUISIANA

**ORDER**

LET the foregoing Restated Supplemental Petition for Declaratory Judgment be filed  
as prayed for.

Livingston, Louisiana, this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
JUDGE, 21st Judicial District Court

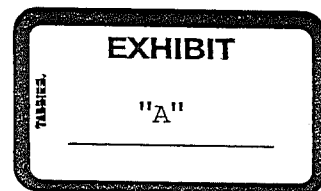
**PLEASE SERVE:**

The Lake at Belle Terre Home Owners Association, Inc.  
and Jeff Zettlemyer  
through their counsel of record:  
Jeffrey K. Cody  
Shows, Cali, Berthelot & Walsh, LLP  
628 St. Louis Street  
Baton Rouge, LA 70802

# Lakes at Belle Terre

XX

October, 2010



This is the first in a series of newsletters from your Board, designed to keep you informed on issues affecting our subdivision. In light of the break-ins this summer, the loop and HUD threats, and the misinformation and rumors being circulated by a few dissatisfied residents, the board has decided to provide periodic updates on its activities and its expenditures of HOA funds.

Enclosed, you will find this year's ballot, which we ask you to bring with you to the annual meeting at the library on November 3<sup>rd</sup>, 2010, at 6 P.M., at which time the annual Treasurer's report will be available, the ballot issues will be discussed and your ballots collected and tallied. Following the tally, your new Board will be introduced. Remember, if you haven't paid your homeowners' fees your vote will not be counted, so please send in your checks now if you have not already done so.

As you can see on the ballot, we are losing two of our officers/board members this year. President, Jeff Zettlemoyer and Treasurer, Carol Harrison will be leaving us after having served with great dedication for more than two years. This leaves us with two openings on the board which have not been filled and for which there are no current nominations or volunteers. In order to function properly in the long term we desperately need to have a Secretary and a Treasurer. We urge all of you to step up and do your civic duty by volunteering your services if you want to continue to have a functioning Homeowners' Association protecting your rights and the value of your investment here.

Without an Association there will be no utilities...no water for the landscaping sprinklers and no power for the lights or fountain; no one to maintain and upgrade the lake and common areas and no way to enforce the restrictions, which will lead to a huge drop in property values and to unsightly violations. If you are at all concerned about the destruction of our beautiful subdivision, please contact a board member immediately and volunteer your services for the coming year.

## BALLOT ISSUES

### #1. HOA dues (currently \$150)

One of the issues on the ballot is the reduction of our homeowners' fees from \$150 per year to \$100 per year. The \$150 fee was voted in by the members in 2008. It was understood at that time that the members would later be given the opportunity to reduce the amount by vote, and thereafter you have seen fit to maintain the fees at the same level. Currently, the \$150 annual fee is in line with the fees of other similar subdivisions in Livingston Parish and is not excessive; we feel blessed to be able to live in this beautiful subdivision for a mere \$12.50 per month in dues. This year, in addition to utilities and maintenance, we have obtained liability insurance for the subdivision which protects the individual homeowners in the event someone is injured on the lake or on the common areas. Additionally, there are several projects that need to be undertaken next year, such as improved landscaping, cleaning out the back pond so that the entire perimeter is accessible by foot, publishing a new directory and taking care of any emergency situations that arise during the year due to accident or natural disaster. Also, depending on the vote, we may be installing signs and possibly pathways on rights of way to the lake for our non-waterfront members' use.

**BOARD RECOMMENDATION:** The board is unanimous in recommending that you vote to maintain the current annual fee at \$150 per residence.

### #2. 11 P.M. Lake curfew for children under 18 without adult supervision.

At our September meeting a lakefront owner proposed this rule after being disturbed in the middle of the night by loud teenagers right behind his house who also vandalized the bench he provided for everyone's use.

**BOARD RECOMMENDATION:** The board is unanimous in recommending a lake curfew for unsupervised minors.

**#3. Whether to clear and mark lake access servitudes.**

At our September meeting a non-lakefront owner noted that neither of the two access servitudes were clearly marked so that he could avoid trespassing on private property when he used the lake; it was disclosed that one servitude was completely blocked by a private fence and it was proposed that the board take action to clear and mark the lake access routes.

**BOARD RECOMMENDATION:** The board is unanimous in recommending the servitudes be cleared and marked.

**#4. Whether to prohibit regular and overnight parking on common areas, servitudes, sidewalks and front yards.**

At our September meeting several owners voiced concern over the regular parking of vehicles on grassy areas and across sidewalks in the subdivision, thereby creating an eyesore in the neighborhood; impeding pedestrian use and damaging the cul de sacs. It was recognized that occasional use of these areas was necessary when owners had company; when workers were on the job, or in times of emergency, so it was proposed to limit parking in these areas to such occasional use.

**BOARD RECOMMENDATION:** The board is unanimous in recommending that parking in the common areas be limited to occasional use only.

**OTHER BUSINESS:**

As we have numerous new residents and many phone numbers have changed, we are updating our neighborhood directory which will be provided to every member in good standing. You may request either a hard copy or a .PDF file to be emailed to you. This year, we have decided to include email addresses as well as a note of any business or services provided by our members which may be of interest to the community. Please update your contact information on the enclosed questionnaire and return it by mail or at the annual meeting. You may also email your info to Vice President, Cheryl Hensley at [chensle3@cox.net](mailto:chensle3@cox.net) or phone her at (225) 271-8113 with any questions, comments or concerns.

The email list will be used to relay important messages affecting our subdivision and our community. It would have been great to be able to warn people instantaneously when the car break-ins occurred this summer. Also, an email list will be a useful tool in organizing neighborhood events such as barbeques, garage sales, or good Samaritan projects for neighbors in need, which has been suggested by some members. We also want to encourage greater member participation in the workings of the Board by sending out periodic updates and getting feedback from you throughout the year. As always, our main goal is to maintain our property values and our quality of life in Lakes at Belle Terre and the surrounding community.

We would encourage you to check out a newly formed group here in Watson called **Neighbors In Action!** Their website is [www.neighborsNaction.com](http://www.neighborsNaction.com). The parent group was formed by citizens opposed to the Loop's impact on Watson and they most recently exposed the actions of some elected officials in attempting to locate a low income, high density HUD housing project here in our community.

We look forward to seeing all of you at the library for our annual meeting at 6 P.M. on November 3rd, 2010, when we will introduce our new Board, announce the results of the vote and address other important issues. Please visit our website at [www.orgsites.com/la/lakesatbelleterre/index.html](http://www.orgsites.com/la/lakesatbelleterre/index.html) to review our most recent Treasurer's report and submit any issues you wish to place on the agenda for the annual meeting. It has been a pleasure serving you again this year!

Jeff Zettlemyer, Pres.      Cheryl Hensley, Vice Pres.      Kevin Dees, Secretary      Carol Harrison, Treasurer

Greg Magee, Chairman, Architectural Committee



THE LAKES AT

*Belle Terre*

Hudson & Marga Tabor  
9154 Rue de Vieux Carre  
Denham Springs, Louisiana 70706  
LOT 37

Please bring your ballot to the Homeowners Association meeting scheduled for November 3, 2010 at 6PM at the Watson Library Meeting room or mail your ballot to P. O. Box 1021, Watson, LA 70786.

**\*\* Ballot results will be announced at 7:00 p.m. \*\***

**\*Conditional\***

**BALLOT**

**BOARD OF DIRECTORS:**

**President:** Kevin Dees (unopposed)

**Vice President:** Cheryl Hensle (unopposed)

**Secretary:** none nominated

**Treasurer:** none nominated

**The Board recommends a vote for the following:**      **FOR**                      **AGAINST**                      **ABSTAIN**

- |  |  |   |   |
|--|--|---|---|
| <p>1. Annual dues be set at: (check one)</p> <p style="padding-left: 100px;">\$100.00</p> <p style="padding-left: 100px;">\$150.00</p> <p style="padding-left: 100px;">Abstain</p> <p>2. Set an 11:00 p.m. curfew for the lake common area for those under the Age of 18 unless accompanied by adult supervision.</p> <p>3. Right of ways to lake must be cleared and marked.</p> <p>4. Parking in yards will not be allowed overnight or on any ongoing Basis, such as regularly during the day. Not to include occasional short Periods of time for work tasks, parties or times of emergency.</p> | <p><input checked="" type="radio"/></p> <p><input type="radio"/></p> <p><input type="radio"/></p> <p><input type="radio"/></p> | <p><input type="radio"/></p> <p><input type="radio"/></p> <p><input type="radio"/></p> <p><input type="radio"/></p> | <p><input type="radio"/></p> <p><input type="radio"/></p> <p><input type="radio"/></p> <p><input type="radio"/></p> |
|--|--|---|---|

\_\_\_\_\_  
Sign name as listed above

\_\_\_\_\_  
Date