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March 28, 2018

Board Members  
Briar Patch Homeowners Association, Inc.  
6525 Thicket Trail  
New Port Richey, FL 34653

RE: Pool Safety Line Required by Insurance

Dear Board Members:

It has come to my attention that an anonymous resident of Briar Patch wrote a letter addressed to the Board concerning a safety rope that recently was installed in the pool. The letter makes a number of false and inaccurate statements that must be corrected.

First, the unsigned letter makes the claim that after speaking with Briar Patch's insurance agent Heather Guevin, the agent "stated (that) the Insurance Company does not require any rope divider in the pool". For purposes of showing that this statement is utterly false, I have attached to this letter a copy of a correspondence from Ms. Guevin dated July 20, 2017. That correspondence from Ms. Guevin explicitly states that after an inspection of Briar Patch's pool, certain conditions "need to be complied with in order to continue coverage". Further, Ms. Guevin then states that Briar Patch only had 30 days to complete the recommended actions and provide proof of compliance. One of the three "Essential Recommendations" was that Briar Patch must install a Floating Safety Line at the five foot depth.

Second, the anonymous letter then makes allegations that Ms. Guevin made legal statements regarding Florida Statutes and pool safety lines. Whether such conversations actually took place is entirely irrelevant to the issue of whether this Board was required by the insurance company to install a safety line (it was). Whether an insurance agent's attempt to interpret a state statute is accurate does not influence in any way the conclusion of the July 20, 2017 letter to the Association that said it had 30 days to comply with the essential requirements (a pool rope) or lose its insurance coverage.

Lastly, the completely unsupported opinion that Briar Patch is "grandfathered" in and would not be subject to a health, safety and welfare requirement like a pool rope is wrong. Vested rights and preemption of enacted legislation is a very difficult area of the law even for experts. The conclusion that any pool safety rope is not required in Briar Patch is almost certainly wrong. More importantly, regardless of the accuracy of the letter's legal conclusion on vested (grandfathered) rights, it is totally irrelevant. An insurance company can decide to cover or refuse to cover an insured for a variety of reasons, even if those reasons do not include a statutory duty. The letter fails to realize that the insurance company's demand that Briar Patch place a pool safety rope could be (and most likely is) entirely independent of any statutory duty. For purposes of providing insurance coverage to the pool area, the insurance company required the Board to place a pool safety rope—end of story. The

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attached letter makes no mention of any state statute or other reasons. It is perfectly reasonable for an insurance company to protect itself from having to make a pay-out by requiring "best practices" or essential fixes before it will agree to cover an association like Briar Patch. Here, the company was concerned about pool safety and made it a pre-condition that the Association make essential fixes before it would issue coverage.

In conclusion, the anonymous letter written to the Board is not only factually and legally inaccurate, but the course it advocates could quite possibly endanger the residents of Briar Patch. As the attached letter from the insurance company makes explicitly clear, it was a requirement of coverage that the Association install and keep a pool safety rope and provide proof of compliance of the same to the insurance company. Should anyone listen to the advice of this letter writer, the Association would likely be in breach of its contractual obligation. The insurance contract makes it clear that insurance coverage was dependent on Briar Patch installing and keeping the safety rope. If a condition precedent like the safety rope is taken down, then any loss that otherwise would have been covered by insurance would then be avoided by the insurance company. Thus, the entire purpose of having insurance would be undermined if the Association listened to the anonymous letter writer and refused to follow an agreed-upon contract term (the installation and maintenance of a pool safety rope). It is my legal opinion that if the request in the anonymous letter to remove the safety rope were to be followed, it would cause significant risk to the Association and residents. Without insurance coverage, any accident relating to the pool safety rope would then have to be covered by individual homeowners should there be a judgment. No owner should risk having to pay a portion of a lawsuit judgment when there is insurance coverage otherwise available. In this case, the precondition to having insurance coverage is that the Association have a pool safety rope.

Hopefully this letter clarifies the confusion that exists because of a poorly thought out and researched anonymous letter to the Board. It is my opinion that the Board did the correct thing in following the insurance company's requirement to place a pool safety rope. Further, it would be absolutely and stunningly incorrect to remove the pool safety rope when doing so would almost certainly result in the insurance company cancelling coverage for Briar Patch.

Yours truly,

/s/

John K. Renke III

Attachment: Insurance Agent's Letter

**Paul Morrison**  
insurance & real estate

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*sent  
mjt*

July 20, 2017

Briar Patch Homeowners Association Inc  
6525 Thicket Trail  
New Port Richey, FL 34653

RE: General Liability  
Policy #ACA1146

We have received notification that an inspection was recently completed of your property. The inspection resulted in a few recommendations that need to be complied with in order to continue coverage. The company is giving us 30 days to provide proof of compliance.

Please see attached recommendations. Once completed, please return this document to our office signed where indicated.

If you have any questions, please do not hesitate to contact us. Thank you for letting us be of service to you.

Sincerely,

*Heather Guevin*

Heather Guevin  
Paul Morrison Insurance  
A Division of Winder Insurance Group



Morstan, a division of Hull & Company, LLC  
970 Lake Carillon Drive, Suite #200  
St. Petersburg, FL 33716  
(813)643-0707 Fax  
Managing General Agents of Wholesale Insurance Brokers

July 19, 2017

**RECOMMENDATION LETTER**

PAUL MORRISON INS. & REAL ESTATE, INC.  
4734 Mile Stretch Drive  
P O BOX 3646  
Holiday, FL 34690

**RECEIVED**  
7/24/17

RE: Briar Patch Homeowners Association, Inc  
Policy #: ACA1146  
Folder #: BR1A416

Locations:  
6525 Thicket Trail, New Port Richey, FL, 34653

Please be advised that as a result of a recent inspection of the above risk, the items or circumstances detailed below were identified and must be addressed or modified in order to qualify for continued insurance coverage under the above insurance policy.

These recommendations incorporate some of the conditions found at the location. They do not necessarily constitute a complete list and are not made solely for the purposes of life safety or loss prevention.

The insured has 30 days to comply with the recommendations. Failure to comply and provide a signed certificate may result in the company issuing notice of cancellation. Please provide a receipt of repair for those recommendations completed by a licensed contractor.

Thank you for your anticipated cooperation. If you have any questions, please contact us.

Lisa Miller  
Lisa.Miller@hullco.com

***Insured is required to sign & date below once all recommendations are completed.***

I hereby attest that the corrective actions or modifications listed for the referenced premises have been completed.

Signature *Marlene J Winchester* Printed Name MARLENE J WINCHESTER  
Title PRESIDENT/TREASURER Date 8/23/17

The recommendation(s) may not address each and every possible loss potential, violation of any laws, rules or regulations, or exception to good practices and procedures. The absence of comment, suggestion or recommendation does not mean the property or operation(s) is in compliance with all applicable laws, rules or regulations, is engaging in good practices and procedures, or is without loss potential. No responsibility is assumed for the discovery and/or elimination of hazards that could cause accidents or damage. Reliance upon, or compliance with, any of the recommendations contained herein in no way guarantees the fulfillment of your obligations under any laws, rules or regulations.

*POND SIGNS ORDERED, BUT NOT RECEIVED.*  
*mjm*

Essential Recommendations

Location: 6525 Thicket Trail, New Port Richey, FL 34653

2017-07-01

**Pool Signage- No Lifeguard**

Insured should include in the pool signage: No Lifeguard, swim at your own risk.

DONE BY POOL MEDIC (PORT RICHEY)

2017-07-02

**Floating Safety Line- None provided**

Insured should install an appropriate safety line at the 5 ft. depth.

DONE BY POOL MEDIC (PORT RICHEY)

2017-07-03

To help prevent bodily injury and perhaps drowning - "No Swimming" and "No trespassing" verbiage signs should be posted around the pond. This should be discussed with your legal counsel for additional cautionary verbiage, number of signs and placement.

ORDERED FROM GREAT BAY SIGNS (LARGO)