

Letter of concern to the Eagle Canyon / Missouri River Ranch HOA/LOC

December 1, 2020

We are writing this letter to express several concerns following the September Annual meeting. We have attempted to email the board on the HOA webpage, but have been unable to do so after multiple attempts.

Issue #1: Roads

For the past several years, we have seen the roads graded at least once per season. This most recent season, although Rocky road was graded up to Charbonneau, there was no work done on the road past our property or further up Rocky road (which we travel regularly). If the expectation is that landowners continue to pay a maintenance fee, we expect the level of road maintenance to at least include our road.

Issue #2: Voting Proxy

Since purchasing our land in 2015, we have attended every HOA meeting and voted regularly. This year, several friends who are seasonal residents of MRR had asked us to vote on their behalf. We had collected their signed proxy (as had been accepted in previous years). We were surprised and upset when the board chose to require a specific notarized form with less than 30 day notice before the September meeting date. Our friends were not able to meet this new requirement within the short time restrictions, so we brought the existing proxies with us to the meeting. Although we voted on their behalf, it is still unclear whether these votes were ultimately accepted and counted towards the party they chose. This requirement, timed as it was, seemed an intentional effort by the Board to silence the voices of many landowners who could not be present.

Issue #3: The Board's Attorney

We also have multiple concerns regarding the attorney in use by the Board. At no time in the past several years has the Board dedicated such a large portion of the budget for legal services (from \$2500 in 2019 to \$8000 in 2020, for example). What has changed to create this need? Further, it is our understanding that the attorney representing the Board (Mr. Colin Phelps) in fact works for the same law offices (Christensen & Prezeau) that provide services for Board Member and Landowner Mr. Pieloch. If Mr. Pieloch holds a personal account with Christensen & Prezeau, how can Mr. Phelps provide legal advice that may be in the best interest of the landowners and HOA, if it is contrary to the desires of his office's largest client? This appears to be a potential conflict of interest and should be vetted with the State Bar's legal counsel before proceeding further.

Issue #4: Annual Fees

A letter from the Board was sent out in March, explaining that the Board intended to initiate action against landowners for their failure to pay outstanding HOA fees. Later, we learn that the Board had reversed its stance and decided to waive outstanding fees for delinquent landowners, while explaining the need to raise the annual fee on the backs of those landowners reliably paying their annual installments. A blanket waiver of all outstanding fees seems reckless and not in the best interest of the HOA. Previous Board minutes provide a long term picture of the specific landowners with accumulated debt.

Based on the total outstanding HOA fees documented in earlier year's budget statements, it is inconceivable that a bookkeeper's fees would be more than the sum of the outstanding debts. Did the Board consider asking for volunteers to assist in reconciling the various documents that were transferred from the Lanes to the HOA? Were there no other alternatives to address this matter?

As a landowner that has faithfully paid their fair share, the decision to waive past due fees is very difficult to accept. It is even more unconscionable that the Board believes those paying landowners should now accept an inflated maintenance fee to compensate for these delinquent landowners, with no other consequences.

Issue #5: Vote for new Board Members

We attended the September 2020 Annual meeting and observed the voting. We voted for and saw what we believed was the majority vote for candidate David Allen. Later we learned a number of votes were disqualified and the other candidate (Richard Kollars) was placed in the position. The Board has not provided a clear explanation of this change in voting selection. Since we placed several proxy votes for our neighbors, we would like some assurances that our votes were counted. If the Board will not be forthcoming in this matter, the voting results are very difficult to accept as accurate.

Although we won't expect a personal response to our questions and concerns, perhaps the Board can compose a response on the website (or mailed to all landowners) explaining some of these issues in further detail, along with the plans moving forward to address concerns.

Thank you,

A handwritten signature in black ink, appearing to read "Randy and Kim Trefry". The signature is fluid and cursive, with the first names being more prominent.

Randy and Kim Trefry

**Missouri River Ranches/Eagle Canyon Ranches
Landowners Corporation**

PO Box 162
Cascade, Montana 59421-0162

January 18, 2021

Randy and Kim Trefry
3515 Rocky Road
Cascade, Montana 59421

Dear Randy & Kim,

Thank you for your thoughtful correspondence.

I will address each issue you've listed in your correspondence:

1) Roads.

2020 has been an learning experience for the Board. We initially contracted with a local contractor to grade the main roads and make some much needed repairs on Charbonneau, Beaverslide Loop, and Spring Drive.

The contractor committed to having the work done by May 31st. Low and behold every month we would get an update that he would have them completed by the end of the next month, and then the end of the next month. Finally, on September 1st he sent me an email stating that he would not be able to complete the work.

At this point we scrambled to find an alternate contractor. We found one that was willing to squeeze us into his already booked schedule. We weren't able to get all the work done that we wanted, but we got the main roads bladed and some badly needed repairs on Arrow Drive, Beaverslide Loop and Charbonneau done.

The road committee is currently putting together our 2021 road repair and maintenance plan, so we can get it scheduled with a reliable contractor before the season begins. Our intention is to be first in line rather than last in line. **You can read the Board's Road Plan & Policy on the website.** It is posted for all to read.

It's going to take a number of years to get the roads in reasonable condition. Since the developer never invested in improvements or repairs, it's up to the LOC to get the job done. We still have many roads that need immediate repairs. However, we can only do so much with the budget we have.

Rocky Road is definitely in need of major repairs and maintenance. It will be on the agenda for the 2021 Road Campaign. Also, if you read the Board's Road Plan & Policy you will see that we are committed to grading the roads twice a year in order to begin shaping and ditching. This will help in the long-term, reducing erosion and destruction of work already completed on the roads.

2) Voting Proxy

It is important that elections for the Landowners Corporation are secure, fair and accurate. In the past, elections votes were tallied by show of hands. No one I know, believes this was a good way to hold elections.

The Board wanted to ensure that only eligible voters were voting and drafted a proxy requiring a notarization. Although the appearance may have been it was done to make proxy voting difficult, it wasn't. The reason was to ensure that the folks providing the proxies were the actual landowners. It was a mistake on the Board's part to implement this so soon to the Annual Meeting. Because of our mistake, we accepted all proxies.

To this date, I can't tell you if the proxies we accepted are real or not. Anyone can sign someone else's name to a proxy and we wouldn't know the difference. I can assure you however, the proxy votes you submitted were indeed counted and are part of the total count of election results.

The Board must come up with a better system for voting before our 2021 Annual Meeting. This is a top priority for 2021.

3) The Board's Attorney

As you know, the previous LOC never informed the Landowners of any Board Meetings or what was really happening with the LOC, nor did they provided us with any guidance or documentation. We wanted to be sure that we were doing things correctly and legally to start out. We decided to use Colin Phelps for a number of reasons:

- a) Colin specializes in HOA and LOC law. Although you can go out and find another attorney, you are better off when you have someone who specializes in that particular area of law.
- b) Colin was somewhat familiar with our LOC because of the work which was done for Mark Pieloch by his firm (I don't believe Colin did any work directly for Mark Pieloch). A large cost for an attorney is getting them familiar with the issues at hand (they charge by the hour). If you hire an attorney from scratch, you're going to be paying a lot of money up front just to have him/her familiarize themselves with the LOC and its issues.
- c) Both Mark Pieloch and the LOC signed a conflict of interest agreement, stating that if a conflict between Mark and the LOC ever occurs, they would discontinue representing both Mark and the LOC.

Mark Pieloch generously paid for the LOC's legal costs in 2019 & 2020. However, this commitment ended on December 31, 2020. The LOC will be responsible for paying all legal costs in the future.

The legal advice provided by Colin has been invaluable. It wasn't about any legal tricks or suing anyone. It was guidance as to what our duties were; how we must carry out those duties; and what we could and could not do. We wanted to make sure we were operating the LOC in accordance with the bylaws, covenants and the Montana Non-Profit Corporation Act. We're also not attorneys, and need an attorney to respond to legal questions and issues, on our behalf. It is not our place as Board members to respond to legal questions or issues.

You must also keep in mind, these positions are voluntary. No volunteer wants to make decisions for the LOC which may expose the LOC or themselves to potential liability.

As far as future legal costs, the bulk will be for enforcing covenants and collecting delinquent assessments. Since the previous LOC (the Lanes) never enforced covenants or collected delinquent assessments we have been left with a huge mess. Legal costs will be used for:

a) Collecting delinquent assessments. In the past, the LOC spent approximately \$2,500 to re-file liens against delinquent landowners. This did nothing more than waste \$2,500 a year. The Board's current policy is to send a delinquency notice, file a lien on the property after a specific date, and then file for foreclosure on the property after a specific date. Depending on the circumstances, we feel this will cost approximately \$2,000 per delinquent landowner for filing liens and foreclosures. A \$10,000 budget only allows us to deal with (5) delinquent landowners per year.

Keep in mind however, we will be successful in our litigation. So, eventually we will not only collect the past due assessments, but also our legal fees and court costs. But to start out, it takes money. Hopefully, this will eventually reduce the delinquency rate and we can reduce our overall budget for legal fees.

I should also mention, this is the biggest complaint I get from paying landowners. They don't mind the increase in assessments because they understand the need to get the roads fixed, etc. However, they are livid that they are paying assessments and a bunch of freeloaders aren't.

b) Covenant Enforcement. This is another area the previous LOC did nothing about. Currently, we have notified (14) properties that they are violation of covenants. Legal fees are involved in this since our attorney sends out violation notifications. And, if a landowner refuses to cleanup, we will have to get a court order to compel them to do so. As with the delinquent assessments, we will eventually collect our attorney fees and court costs. However, it takes money up front.

4) Delinquent Annual Fees

This is an issue that sticks in everyone's craw. Most Board members were of the opinion that we should go against all delinquent landowners. However, after receiving legal counsel and weighing the situation it was decided to forgive all delinquent assessments prior to 1/1/2020. The reasoning is as follows:

a) The records provided to us by the Lanes were terrible, to be charitable. They were kept on spreadsheets with hand written notes. There were no invoices or other source documents showing how much the landowners were billed; and there were no source documents showing payments made or not made. This makes it difficult to impossible, to determine exactly who owes what.

b) Our legal counsel informed us that we had a very weak case in collecting past due assessments on Landowners in the Eagle Canyon subdivision, due to the Lanes allowing the corporation to be involuntarily dissolved.

c) When weighing the cost benefit, we determined that it would probably cost the Corporation \$10,000+ (in attorney and accountant fees) to collect \$8,000. This is not cost effective.

d) The board is faced with many issues (roads, covenant enforcement, etc). It was felt that it was better to focus our attention on the bigger issues rather than focus and expend resources on a no-win situation.

Just to be clear, we will be going after all delinquent assessments that were levied after 1/1/2020. Landowners who have not paid their 2020 assessments should expect action will be taken against them.

It is also true that past Annual LOC Meeting minutes contained a list of delinquent Landowners. As previously stated, although liens were filed, nothing was ever done about collecting the delinquent fees. Additionally, it was determined that publishing names of delinquent Landowners raised liability questions for the LOC. This "shaming" method of trying to collect delinquent fees not only didn't work, but exposed the LOC to liability risks.

5) Voting for New Board members.

At the Annual Meeting I announced the preliminary results. I also stated that these results were subject to verification. Here is what was found in the verification:

a) The election judges verified (96) votes for Richard Kollars and (75) votes for David Allen (I'm attaching a copy of the vote verification for your review). This count did not include the votes from Montana Recreational Properties.

b) Prior to the Annual Meeting the Board, through its attorney, requested a certification of the Properties owned by Montana Recreational Properties. They were also informed that if they did not provide the Board with this information, it could affect their voting rights at the Annual Meeting. On August 25th Montana Recreational Properties provided a certification indicating that MRP owned (23) lots (I'm attaching a copy of MRP's certification).

c) One of the lots that was certified by Montana Recreational Properties, MR-118, had been removed from the Landowners Corporation in 2004 by Montana Recreational Properties. Since MR-118 is not part of the Landowners Corporation, it doesn't qualify for a vote. This left MRP with the voting rights to (22) lots.

e) At the Annual Meeting Mark Belew presented a proxy, from Montana Recreational Properties, claiming to have (32) lots and thus (32) votes. This is what gave the initial appearance that David Allen had won.

f) During the verification process the election judges found that a landowner with (2) lots had voted these lots three times. Once in person; once using a proxy designating another person; and once using a proxy designating a totally different person. These votes were thrown out as fraudulent.

g) If you take David Allen's (75), from the election judges certification, and subtract the (2) fraudulent votes, and then add the (22) votes of Montana Recreational Properties, this equals (95) votes for David Allen and (96) votes for Richard Kollars. Richard Kollars' vote count never changed during the entire verification process.

It should be noted that approximately (8) landowners left the Annual Meeting prior to voting because of the hostile environment. A few folks tried to bring firearms into the meeting and were asked to leave the weapons in their vehicle. Ultimately, three Lewis & Clark Sheriff Deputies arrived to ensure the safety of members. This demonstrates the complete disregard for the Landowners attending, and the length some folks will go to push their agenda.

The landowners who left, were robbed of their right to hear the presentations, ask questions and vote accordingly. Shame on the opposition.

It should also be pointed out that the opposition held a meeting prior to the Landowners Annual Meeting, to plan their attack on the Corporation and the Board members. Board members were prohibited from attending this meeting. They objected to our labeling it a "secret" meeting, but what else do you call a meeting that excludes certain landowners?

I trust that I have addressed your concerns. I can't respond to the untruths that are being spread on the grape vine or on Facebook pages. However, I do ask you to be fair in your deliberation. You expect the Board and myself to provide you with factual/evidential information regarding actions taken, future plans, etc. Please hold the other folks just as accountable. If they are saying I'm doing this or that; or Mark Pieloch is doing this or that; or the Board is doing this or that; have them provide you with facts/evidence supporting these assertions. I can assure you that they can't provided any such factual/evidential information. There campaign is to stir up the community with lies and half-truths; to attack people personally; and to ultimately destroy the LOC. Eventually, the community will figure them out.

If you have any further questions, please don't hesitate to contact us.

Have a Safe winter.

Sincerely,

MRR/ERCLOC



Dennis W Greany
President/Chairman of the Board

Board Members

Richard Kollars
Dennis Greany
Roy McFarlane
Mark Pieloch
Mark Belew

To Whom It May Concern,

On September 22, 2020 Kathy Reiter and Roberta Diaz met and recounted votes from the MRC ECR Ranches election for in person votes and proxy votes. The remaining votes from the Developer DEE DEE and Jim Lane via Proxy remains to be determined by an entity other than Kathy Reiter and Roberta Diaz.

Kathy Reiter counted the following votes for the at Large Board Member choice

Richard Kollars

In person votes

36 93

Proxy Votes

3 3

Total 96 100

David Allen

In person votes

36

Proxy Votes

3 9

75 total

Signature

Date

Roberta Diaz counted the following votes for the at Large Board Member choice

Richard Kollars

In person votes

93

Proxy Votes

3

David Allen

In person votes

36

Proxy Votes

3 9

Signature

Date

August 25, 2020

RE: C&P 3068-3

Colin Phelps
CHRISTENSEN & PREZEAU
Attorney at Law
314 N. Last Chance Gulch
Helena, Montana 59601

Dear Colin:

We received your letter dated August 20, 2020 regarding the clean-up of many lots on Missouri River Ranch and Eagle Canyon Ranch.

Montana Recreational Properties, Inc. are in agreement that the following lots need to be cleaned up. Please note the enclosed letter being sent to each lot owner in violation with their addresses.

MRP, Inc. also needs an up to date lot ownership of all properties that Mark Pieloch Owns up to August 25, 2020.

MRP, INC. presently owns **6 MRR lots**; MRR 2, MRR 14, MRR 36 ,MRR 87 (we have always let the Landowners use the gravel without cost to use on the roadsas needed.), MRR 101, MRR 118

We currently **do not** have an up to date list of paid off owners that sold their lots individually. I suggest that the Landowner Association secretary get on the Montana Cadastral and find all the actual owners to date.

MRP, Inc. presently own **17 ECR lots**, ECR 34, ECR 43, ECR 45, ECR 50, ECR 55, ECR 72, ECR 77, ECR 123, ECR138, ECR 139, ECR 140, ECR 141, ECR 142, ECR 149, ECR 153, ECR 154, ECR 155.

Also enclosed is a list of names and addresses and lot # of all our current escrow Buyers. This list is not to be used for the purpose of contacting these owners offering to buy their 20 acres sites for Mark Pieloch through Sharon LaFaver.