



May 9, 2016

Mr. David Stiles, Attorney for WV State Tax Commissioner  
Department of Revenue, State Tax Department  
1012 Kanawha Blvd. E, Suite 300  
Charlestown, West Virginia 25330

Dear Mr. Stiles,

The members of the Eastern Panhandle Organization of Homeowners Associations have warmly received your letter and appreciate the information you had included. While speaking with the WV Legislative Archivist we learned that 36B UCIOA was actually effective in 1984, not 1980 and wanted to share that with you. EPOHOA has widely circulated your welcomed correspondence to homeowners at our public meetings and online.

In regards to your gracious request to keep you informed concerning HOA Common Areas being taxed in any county I am providing an extreme example that has surfaced in Berkeley County. Because of this particular issue our Organization provided a form that is circulated to HOAs of the Organization and made publically available on our website. We are confirming others prior to notifying you.

The current example is APPLE KNOLLS HOMEOWNERS ASSOCIATION. Apple Knolls had discovered their storm water management common area had been sold at auction for delinquent tax in 2009. Apple Knolls has been financially maintaining what they believed to have been their SWM property of +13 acres at an average cost of \$8,000/year supported with required HOA assessments from their members. Over the course of the sold years they have spent roughly \$56,000.

The owner of the SWM is not a homeowner in Apple Knolls HOA but a private citizen, MOHSEN SADEGHZADEH, who pays no assessment to the HOA. We have no idea if an auction sale for delinquent tax includes the rights that run with the land and/or the requirements of the HOA's governing documents. HOAs are required to maintain insurance for their common area, including SWM. We have no idea exactly how to recover HOA SWM when mistakenly sold at a delinquent tax auction. There is no available HOA guidance to refer to.

I have included the information recovered with research in locating ownership. In our opinion the Berkeley County tax assessor must step up to the plate. It is unfortunate that is not the case - it is unjust and does not correct the problem. Therefore, we alert you as you've requested.

SHARING INFORMATION – INCREASING KNOWLEDGE

EASTERN PANHANDLE ORGANIZATION OF HOMEOWNERS ASSOCIATIONS  
P.O. BOX 911 – Charles Town – WEST VIRGINIA 25414

[INFO@EPOHOA.ORG](mailto:INFO@EPOHOA.ORG)

[EPOHOA.ORG](http://EPOHOA.ORG)

HOAs are continually trapped with having to retain legal council which is always extremely expensive. It is our desire that as attorney for the state tax department you would right this wrong and tackle the issue, not just for Apple Knolls, but all HOAs in West Virginia that surface with these tax auction sale surprises.

EPOHOA dug deep to locate WV code or any ordinance that protects SWM and/or flood plains from being sold out from under the HOA. We cannot locate anything; we can only find county requirements for builders of subdivisions who must provide water run off areas, storm water management and/or flood plains parcels.

Your assistance in this matter would be greatly welcomed. Please contact me at your earliest convenience.

Your continued interest in our members' HOA tax dilemma is appreciated.

Respectfully,

---

Nance Briscoe, Vice President & Membership Chairman  
Eastern Panhandle Organization of Homeowners Associations  
(304) 728-2201  
(304) 724-6323 Fax  
(202) 460-5181 Cell  
info@epohoa.org  
briscoen@frontiernet.net

- ATTACHMENTS :  
EPOHOA Form : Homeowners Homework – 1 page  
MOHSEN SADEGHZADEH information of ownership – 6 pages  
Residential/rural Review Document – 1 page  
Relevant References – 2 pages

- APPLE KNOLLS' CONTACT:  
Terry McSweeney, HOA Secretary/Treasurer and representative registered with EPOHOA  
356 Braeburn Drive  
Martinsburg, WV 25403  
(304) 350-8089  
terencemcsweeney@hotmail.com

- APPLE KNOLLS Management Company:  
Coventry Group Community Management, Inc.  
Mark Schloemer, President mark@coventrygrp.com  
21 S. Kent Street, 1st Floor  
Winchester, VA 22601  
(540) 535-0816 fax: (540) 301-5143  
Mailing Address: P.O. Box 2580 - Winchester, VA 22604

SHARING INFORMATION – INCREASING KNOWLEDGE

EASTERN PANHANDLE ORGANIZATION OF HOMEOWNERS ASSOCIATIONS  
P.O. BOX 911 – Charles Town – WEST VIRGINIA 25414

INFO@EPOHOA.ORG

EPOHOA.ORG

EPOHOA's HOMEOWNERS HOMEWORK  
DUE May 18, 2016

3-1-2016

What is the name of your HOA? Apple Knolls  
do not abbreviate

Have you requested your HOA's original plat? YES  NO

Are you in possession of your original plat? YES  NO

Do you know where your flood plain/storm water management parcel is located? YES  NO

Have you read the NOTES included on your original plat? YES  NO

Have you requested your HOA's DEED OF TRANSFER? YES  NO

If your flood plain/storm water management parcel was sold, have you requested your HOA's proof of sale of your flood plain/storm water management parcel?  
YES  NO

These questions are required by EPOHOA in order to respond to the West Virginia Tax Commissioner's correspondence. EPOHOA is aware HOA common area flood plain/storm water management parcel(s) have indeed been sold at auction to private parties due to erroneous delinquent tax.

*"In the meantime, whenever you have specific information that any county is not following the law, please bring it to our attention, so that we may contact that county's assessor directly with a reminder"*

/s/  
David L. Stiles, Staff Attorney  
West Virginia Department of Revenue  
Mark W. Markowich, State Tax Commissioner

REFERENCE:  
CHAPTER 36B. UNIFORM COMMON INTEREST OWNERSHIP ACT  
ARTICLE 1. GENERAL PROVISIONS.  
§36B-1-105. Separate titles and taxation.

BONUS QUESTION: Do you know the book and page of your HOA's original plat that is recorded in your county?

SMW DB BOOK No. 70 PAGE No. 557

HOA 82  
cab 2 slide 50  
Book 445 PG 488  
333 226  
563 689  
445 481  
525 576

Please return your answers to: Nance Briscoe, EPOHOA Membership Chairman  
P.O. Box 911 - Charles Town, WV 25414

FEB 24, 2016  
11:43 AM  
(CA12)

RESIDENTIAL/RURAL REVIEW DOCUMENT  
BERKELEY COUNTY, WV

PAGE: 1  
AP922PTD

PARCEL ID 04- 33M-0071-0000-0000 DEED B/P 923 / 673 CARD NO. 1 OF 1 TAX YEAR 2016 TIEBACK 0000 ALT ID 07225689  
ADDRESS SWM (CA21)-----DWELLING DESCRIPTION---  
NBHD 4050 RESTRICTION / / (CA21)---DWELLING COMPUTATIONS-  
LUSE 100 (AA11)---OWNER INFO.---- STYRY HEIGHT YR EFF. GRADE FACTOR 0.00%  
LIV UNIT 0 SADEGHZADEH MOHSEN (CA13)---SALES INFORMATION---- EXT. WALL BASE PRICE 0  
TX CLASS 3 DATE TYP PRICE SR VAL YR.BUILT REMODELED STYLE BSMNT 0  
ZONING 04/06/09 1 726 4 5 BASEMENT HEATING FUEL TYPE OTH FEATURES 0  
PROP.CL R 1771 CEDAR CREEK GRADE WINCHESTER VA 22602 2344 SYSTEM ATTIC DWELLING SUBTOTAL 0

(CA12)-----PROPERTY FACTORS----- (CA16)---ENTRANCE INFO.--  
TOPO 1 LEVEL / / DATE CODE INFO.C ID  
UTILITY 2 3 PUBLIC W / PUBLIC S / 06/21/13 5 3 DOC  
RDS/TRF 1 PAVED / / 04/30/10 5 3 JDV

FRT 9 RESIDENTIAL  
(AA12)----- LEGAL ----- (CA12)----- NOTES -----  
13.23 ACRES S/W/M AREAS STORM WATER MANAGEMENT SPLIT  
1-2-3-5-6-7-8 AREA 4 PHASE 4 FROM 37-26-2004  
APPLE KNOLLS ESTATES PHASE 2 13.234 AC

T1: T2: T3:  
(CA14)--- L A N D D A T A ----- C A L P T A B L E -----  
QTY ACRE/SFT/UNITS BASE BASE INCR  
PE LN CD FRONT DEPTH PRICE INFL-FAC SIZE RATE /DECR LAND-VAL  
G 1 2 2600.00 2600.00 2,600  
SITE VALUE - ACTUAL FRONTAGE:

MAP/ROUTE /  
(CA21)---DWELLING COMPUTATIONS-  
GRADE FACTOR 0.00%  
BASE PRICE 0  
BSMNT 0  
HEAT 0  
PLUMBING(TOT= ) 0  
ATTIC 0  
OTH FEATURES 0  
DWELLING SUBTOTAL 0  
C & D FACTOR 0.00%  
DWELLING RCN 0  
ADDITIONS RCN  
TOT RCN /SQFT  
CDU % %  
TOT RCNLD .00/SQFT 0  
COUNTY MODIFIER %  
PERCENT COMPLETE 100%  
TOTAL DWELLING VALUE  
OBY & MISC IMP VALU 0  
GROSS IMPRV. 0  
TOT CARD VALUE 0  
(CA11)---PARCEL SUMMARY VALUE--  
COST LAND VALUE 2,600  
COST BLDG VALUE 0  
TOTAL COST VALUE 2,600  
(CA11)----- C U R R E N T A P P R A I S E D V A L U E S -----  
CURRENT LAND 2,600 BUILDING 0 TOTAL 2,600  
RVW CD 1 COST APPROAC RSN 02 Final Value DATE21-JUN-13 ID DOC  
STATUS 7  
ESTIMATE LAND BUILDING TOTAL  
REVIEW CODE RSN DATE ID  
PREV ASMT LAND: BUILDING TOTAL:

TOTAL ACRES TOTAL LAND-VALUE 2,600  
(CA24)-- OTHER BUILDING & YARD IMPROVEMENTS -- (CA12) MISC. IMPROV 0  
TYP ON YEAR WxL GRD MODS C FMD% VALUE TOT OBY & MISC IMPROV VALUE 0  
GROSS BUILDING SUMMARY  
DESC VALUE 0  
(CA22)-----A D D I T I O N S -----  
LINE LOW 1S 2ND 3RD AREA VALUE

(CA23)  
DB-701  
Pg-557

REFERENCES found that appear to be relevant:

March 18, 2016

Berkeley County Subdivision Ordinance

**DEFINITIONS:**

**Common area:** Property held in common by mutual ownership or by an association of property owners within a development or held in corporate ownership for the benefit of each owner within a development. Such property is privately held and not intended for public use.

**Common Interest Community:** Ownership characterized by mutual ownership of common areas, either jointly or through membership in an association. (i.e. single family, condominiums, planned unit developments, and townhomes)

**Holder:** As defined by West Virginia Code Section 3, Article 12, Chapter 20, a holder is:

1. a governmental body empowered to hold an interest in real estate; or
2. a charitable corporation, association or trust exempt from taxation pursuant to Section 501(c) of the Internal Revenue Code, the purposes or powers of which include protecting the natural, scenic, agricultural or open space values of real property; assuring its availability for agricultural, forest, recreational or open space use, or protecting its natural resources or wildlife.

**Section 714. Provisions for Maintenance and Operation**

When the Land Development contains park areas, tot lots, streets, or other physical facilities necessary or desirable for the welfare of residents which are of common use and benefit and which are of such character that:

- A. no public body may legally acquire or operate and maintain the facilities;
- B. no public body which, if established, could legally operate and maintain such facilities, or;
- C. a public body in existence which may legally operate the facilities but refuses or does not desire to operate and maintain the facilities, then the Applicant shall establish, prior to approval of the final plan by the Planning Commission, a homeowners association that will operate and maintain such facilities described above.

Such homeowners association shall be funded by the Developer and shall be sustained by assessment of the property owners. Authority for the homeowners association and the covenants in the proposed deed shall be reviewed and approved by the Legal Counsel to the Planning Commission.

SOURCE: <http://berkeleywv.org/sharedimg/library/27.pdf>

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March 8, 2016

2015 DRAFT of Berkeley County's SWM document

PAGE 20

**E. MAINTENANCE REQUIREMENTS**

(7) Inspection and maintenance agreement

(c) The agreement shall also provide that, if after notice by Berkeley County or an authorized representative to correct a violation found during inspection or requiring maintenance work, satisfactory corrections are not made by the owner(s) within a period of 90 days from the date of the inspection or as agreed to by Berkeley County or an authorized representative, Berkeley County or an authorized

representative may perform all necessary work to place the facility in proper working condition. The owner(s) of the facility shall be assessed the cost of the work and any penalties, which shall include administrative and legal fees/costs incurred. This may be accomplished by, but is not limited to, placing a lien on property or properties containing or served by stormwater management facilities, including but not limited to individual property owners within a homeowners association.

SOURCE: <http://berkeleywv.org/sharedimg/library/74.pdf>

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March 1, 2016

Mr. Sadeghzadeh Moshen owns eight SWM's within Apple Knolls HOA:

Area 1 - 2.0451 acres

Area 2 - 1.7734 acres

Area 3 - .8525 acres

Area 4 - 1.4958 acres

Area 5 - .9880 acres

Area 6 - 1.0407 acres

Area 7 - .8719 acres

Area 8 - 4.1626 acres

SWM total 13.23 acres.

They also represent about eighty percent of Apple Knolls average annual expense for landscaping. Apple Knolls has spent roughly \$8,000/year to mow those areas since the owner acquired those properties. That would mean approximately \$56,000 has been spent to maintain them since April of 2009. HOA Insurance is current.

SOURCE: Terry McSweeny, Apple Knolls

Organization Name	Org Id	Org Type	Effective Date	Established Date	Termination Date	Termination Reason	Charter	Class
<a href="#">AMA, LLC</a> <i>Found:</i> MOHSEN SADEGZADEH	292859	LLC	11/22/2010				Domestic	Profit
<a href="#">AMY'S CAFE, LLC</a> <i>Found:</i> MOHSEN SADEGHZADEH	298586	LLC	6/9/2011		11/1/2013	Revoked (Failure to File Annual Report)	Domestic	Profit
<a href="#">BUNKER HILL ORDER OF THE ORIOLES, INC.</a> <i>Found:</i> MOHSEN SADEGHZADEH	221279	C	11/13/2003				Domestic	Non-Profit
<a href="#">BUNKER HILL ORDER OF THE ORIOLES, INC.</a> <i>Found:</i> MOHSEN SADEGHZADEH	221279	C	11/13/2003				Domestic	Non-Profit
<a href="#">BUNKER HILL ORDER OF THE ORIOLES, INC.</a> <i>Found:</i> MOHSEN SADEGHZADEH	221279	C	11/13/2003				Domestic	Non-Profit
<a href="#">MOLSON'S CAFE, LLC</a> <i>Found:</i> MOHSEN SADEGHZADEH	279854	LLC	7/29/2009		11/1/2013	Revoked (Failure to File Annual Report)	Domestic	Profit
<a href="#">MOLSON'S CAFE, LLC</a> <i>Found:</i> MOHSEN SADEGHZADEH	279854	LLC	7/29/2009		11/1/2013	Revoked (Failure to File Annual Report)	Domestic	Profit

[MOLSON'S  
CAFE, LLC](#)

Found: 279854 LLC 7/29/2009  
MOHSEN  
SADEGHZADEH

11/1/2013 Revoked  
(Failure to File Annual Report)  
Domestic Profit

[PK EL  
DORADO,](#)

[L.L.C.](#)  
Found: 244467 LLC 2/24/2006  
MOHSEN  
SADEGHZADEH

11/1/2013 Revoked  
(Failure to File Annual Report)  
Domestic Profit

[PK EL  
DORADO,](#)

[L.L.C.](#)  
Found: 244467 LLC 2/24/2006  
MOHSEN  
SADEGHZADEH

11/1/2013 Revoked  
(Failure to File Annual Report)  
Domestic Profit

[THE LOBO'S  
CLUB & CAFE,  
INC.](#)

Found: 162052 C 12/11/1995  
MOHSEN  
SADEGHZADEH

Domestic Profit

[VIVA MEXICO  
FAMILY  
RESTAURANT,  
INC.](#)

Found: 184432 C 4/15/1999  
MOHSEN  
SADEGHZADEH

Domestic Profit

Organization Name	Org Id	Org Type	Effective Date	Established Date	Termination Date	Termination Reason	Charter	Class
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View search results by: [Org Name](#) | [DBA](#) | [Name Change](#) | [Registrations/Reservations](#) | [Back To Top](#)

## DBA Results

Organization Name	Org Id	Org Type	Effective Date	Established Date	Termination Date	Termination Reason	Charter	Class
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<u>MOLSON'S CAFE</u> <i>Found: MOHSEN SADEGHZADEH</i>	279854 TN	7/29/2009
<u>MOLSON'S CAFE</u> <i>Found: MOHSEN SADEGHZADEH</i>	279854 TN	7/29/2009
<u>MOLSON'S CAFE</u> <i>Found: MOHSEN SADEGHZADEH</i>	279854 TN	7/29/2009
<u>STATE LINE MARKET</u> <i>Found: MOHSEN SADEGHZADEH</i>	244467 TN	3/20/2006
<u>STATE LINE MARKET</u> <i>Found: MOHSEN SADEGHZADEH</i>	244467 TN	3/20/2006

SOURCE: <http://apps.sos.wv.gov/business/corporations/>

**Local Office Address** 12715 WINCHESTER AVENUE  
BUNKER HILL, WV, 25413

**Mailing Address** 12715 WINCHESTER AVENUE  
BUNKER HILL, WV, 25413  
USA

**Notice of Process Address** MOHSEN SADEGHZADEH  
12715 WINCHESTER AVENUE  
BUNKER HILL, WV, 25413

**Principal Office Address** 12715 WINCHESTER AVENUE  
BUNKER HILL, WV, 25413  
USA

SOURCE: <http://apps.sos.wv.gov/business/corporations/organization.aspx?org=221279>

**Designated Office Address** 14 WHITONIA WAY  
MARTINSBURG, WV, 25404

**Mailing Address** 14 WHITONIA WAY  
MARTINSBURG, WV, 25404  
USA

**Notice of Process Address** ABDOLLAH HADACARD  
14 WHITONIA WAY  
MARTINSBURG, WV, 25404

**Principal Office Address** 14 WHITONIA WAY  
MARTINSBURG, WV, 25404  
USA

Type Address

## Officers

Type	Name/Address
<b>Member</b>	ALI HADAVAND 316 FONTANA CR. MARTINSBURG, WV, 25403
<b>Member</b>	MOHSEN SADEGZADEH 1771 CEDAR CREEK GRADE WINCHESTER, VA, 22602
<b>Member</b>	AKBAR VARAMINI 14 WHITONIA WAY MARTINSBURG, WV, 25404
<b>Organizer</b>	ALI HADAVAND 316 FONTANA CR. MARTINSBURG, WV, 25403 USA

SOURCE : <http://apps.sos.wv.gov/business/corporations/organization.aspx?org=292859>

**Mailing Address** 12715 WINCHESTER AVE  
BUNKER HILL, WV, 25413  
USA

**Notice of Process Address** THE LOBO'S CLUB & CAFE, INC.  
12715 WINCHESTER AVE  
BUNKER HILL, WV, 25413  
USA

**Principal Office Address** 1020 PIILGRIM ST.

Type                      INWOOD, WV, 25428  
                                    USA  
                                    Address

## Officers

Type                      Name/Address  
                                    MORTEZA MOSTAGHIM  
**Incorporator**        3026 SHAWNEE DR., BX. 803  
                                    MARTINSBURG, WV, 25401  
  
                                    MOHSEN SADEGHZADEH  
**President**            12715 WINCHESTER AVE  
                                    BUNKER HILL, WV, 25413  
                                    USA

SOURCE: <http://apps.sos.wv.gov/business/corporations/organization.aspx?org=162052>

**Local Office Address**    24 ANNEX DRIVE  
                                    INWOOD, WV, 25428

**Mailing Address**        24 ANNEX DRIVE  
                                    INWOOD, WV, 25428  
                                    USA

**Notice of Process Address**    ROSA CHAPARRO  
                                    24 ANNEX DRIVE  
                                    INWOOD, WV, 25428

**Principal Office Address**    24 ANNEX DRIVE  
                                    INWOOD, WV, 25428  
                                    USA

## Officers

Type                      Name/Address  
**Incorporator**        ROSA CHAPARRO

ROUTE 2 BOX 109  
INWOOD, WV, 25428  
USA

**Incorporator** FRANCISCO NORIEGA  
ROUTE 2 BOX 109  
INWOOD, WV, 25428  
USA

**President** ROSA CHAPARRO  
ROUTE 2, BOX 109  
BUNKER HILL, WV, 25428

**Secretary** MOHSEN SADEGHZADEH  
501 JEFFERSON ST.  
WINCHESTER, VA, 22601

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<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00

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05/10/2016

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 City, State, ZIP+4®  
**CHARLESTON WV 25301**

PS Form 3800, April 2015 PSN 7530-02-000-9007 See Reverse for Instructions

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 Clerk: 04