

**APPLICATION FOR PLAT VACATION**

Date January 15, 1993

Name of Plat to be vacated: M. J. Barksdale Survey, Abstract No. 11, Rockwall  
County. Being all of Lakeside Village No. 5

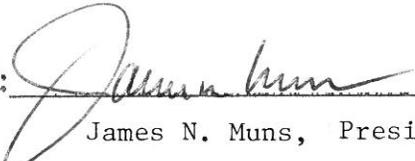
County File No.: Volume 169, Page 888, Deed Records, and Slide B, Page 228  
Plate Records, Rockwall County, Texas

Owner(s) of Record: Jordan Properties Company  
(List all owners, attach additional information if necessary)

Address: 5201 W. Park Blvd, Ste. #200, Plano, TX 75093 Phone: 867-3997

Total Acreage: 19.002 acres Number of Lots: 181 lots

Current Zoning: PD2

Signed:   
James N. Muns, President

The attached form should be used for preparation of a plat vacation document. All blanks should be completed and the appropriate information included in the form.

**FOR CITY USE ONLY**

Received by: \_\_\_\_\_ Date: \_\_\_\_\_

Case File No.: \_\_\_\_\_ Fee Paid: \_\_\_\_\_

CITY OF ROCKWALL  
City Council Agenda

**Agenda Date:** March 1, 1993

**Agenda No:** VI. A.

**Agenda Item:** PZ 93-6-PV Discuss and Consider Vacation of Plat for Lakeside Village Phase 5

**Item Generated By:**

**Action Needed:**

**Background Information:**

*This plat was  
vacated March 1, 1993.*

**Attachments:**

1. Memo to Bill Eisen from Julie Couch
2. Phase 5 Lakeside Village Area Requirements
3. Site Plan
4. Plat
5. Letter from City Attorney Pete Eckert

**Agenda Item:** PZ 93-6-PV - Plat Vacation Request for Lakeside Village, Phase 5

**Item No:** VI. A.

MEMORANDUM  
February 10, 1993

TO: Bill Eisen, City Manager

FROM: Julie Couch, Assistant City Manager

RE: Agenda Item Regarding Plat Vacation Request for Phase 5 Lakeside Village

In December the owner of Phase 5 of Lakeside Village submitted a request for the vacation of that phase. The Planning and Zoning Commission recommended approval of the vacation and at the Council meeting a number of residents were present to voice their concern about the vacation and the lack of notice to them regarding the request. The Council at that time voted to deny the vacation request. Mr. Muns, the property owner, has resubmitted his plat vacation request. The request will be considered by the Commission at their meeting on Thursday, February 12. Again, in accordance with the state and City requirements, no notice is required nor was any notice provided to the property owners in Lakeside Village. A copy of the City Attorney's opinion regarding this matter is attached. We will forward their recommendation to you on Friday.

To review, vacating a plat is removing the approval of the plat as originally approved. The land then goes back to a single tract rather than being divided into individual lots. The site plan on this site was originally approved in 1983 and the plat was filed in 1985. The plat contains 19 acres and is platted for 181 townhouse lots. The lots do not conform to our current townhouse requirements but they do conform to the approved site plan on this site. A copy of the area requirements for this development and the standard townhouse requirements is attached. Before the owner could change the site plan a public hearing would be required under the terms of the PD-2 ordinance.

PHASE 5 LAKESIDE VILLAGE  
COMPARISON OF AREA REQUIREMENTS

<u>Area Requirement</u>	<u>PD-2</u>	<u>Z o n i n g Ordinance</u>
Min Lot Area	2,000	3,500
Min Lot Depth	80 ft.	100 ft.
Min Lot Width	25 ft.	35 ft.
Max Density	12 u/ac	8 u/ac
Min Front Yard	15 ft.	15 ft. or 20 ft.
Min Rear Yard	10 ft.	7.5 ft.
Garage	2 car	1 car
Max Height	2 story	30 ft.
Max Coverage	50%	60%



LAKE RAY HUBBARD

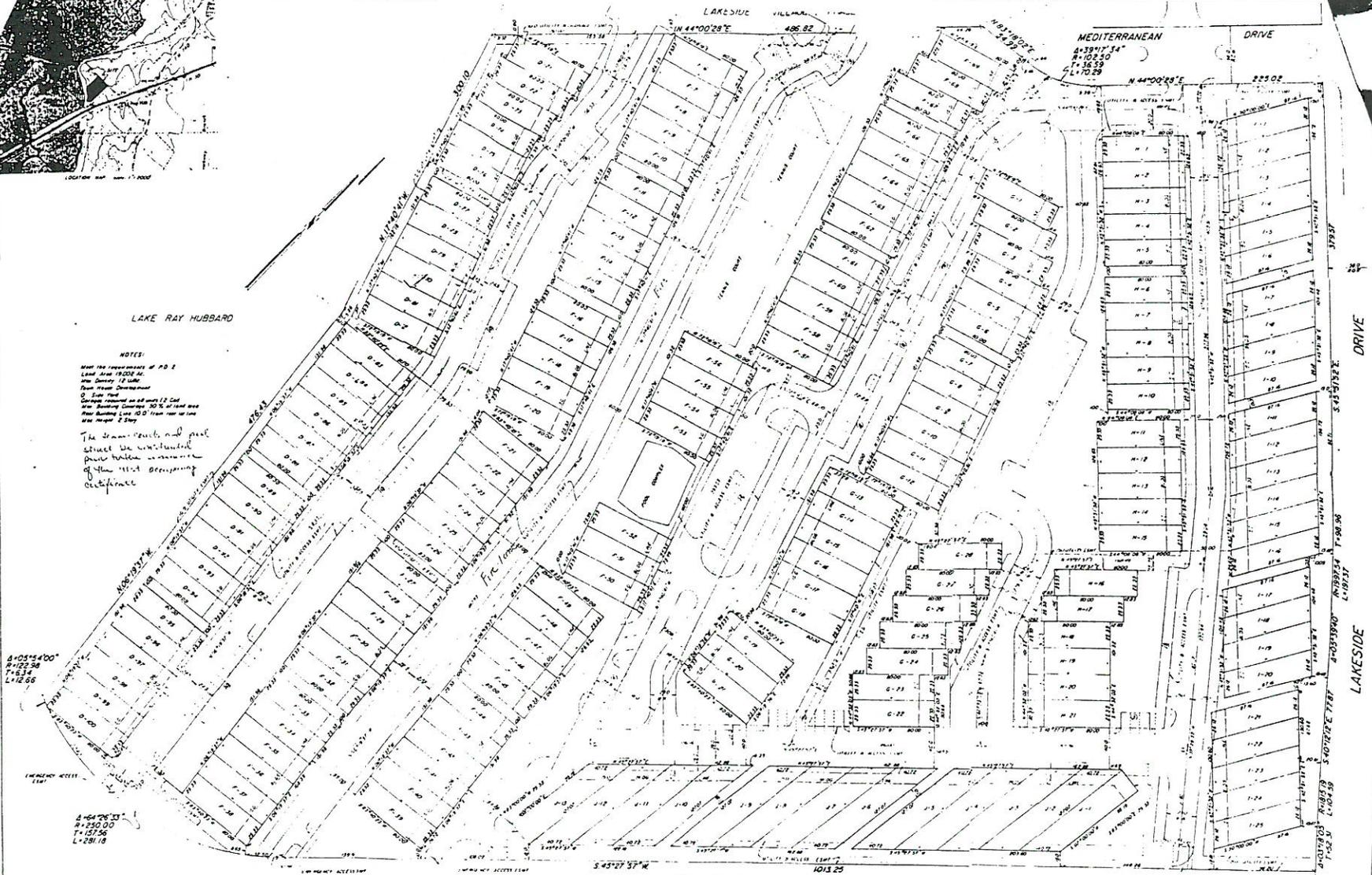
NOTES:

- 1. Show the improvements of PD 2
- 2. Lot Area 18,000 sq. ft.
- 3. New Driveway 12' wide
- 4. New Street 12' wide
- 5. New Sidewalk 6' wide
- 6. New Fire Lane 12' wide
- 7. New Building Coverage 30% of lot area
- 8. New Building Line 10' from rear wall
- 9. New Height 2 Story

The dimensions and plot shown on this plan shall be considered as the final dimensions of the site occupying certificate.

4+05'14"00"  
 4+122.36  
 T+1634  
 L+172.66

4+144'00"00"  
 4+252.00  
 T+157.56  
 L+281.18

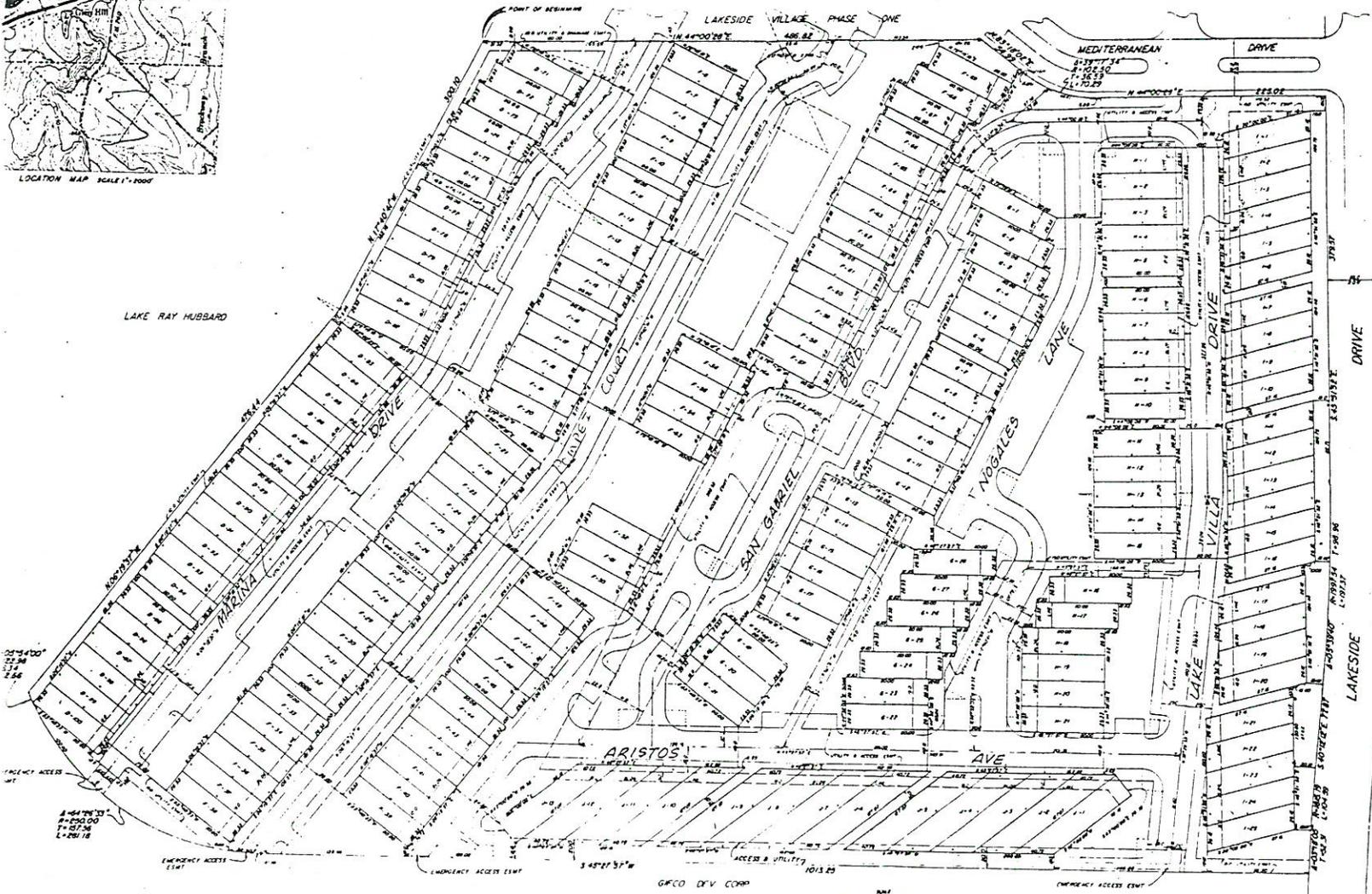


GIFCO DEV CORP 1013 25

<b>SITE PLAN</b>		for	
GARLAND FEDERAL SAVINGS & LOAN		LAKESIDE VILLAGE PHASE II	
DATE	BY	DATE	BY
10/13/25	J. H. [unclear]	10/13/25	J. H. [unclear]
J. H. [unclear]		COMPUTING ENGINEER	



LOCATION MAP SCALE 1"=1000'



GENERAL NOTES:  
 1. CREATED HERE WITH IS A 23.0' WIDE FIRE LANE 12.5' EITHER SIDE OF THE CENTER LINE OF ALL STREETS.  
 2. COMMON AREA ALSO DESIGNATED UTILITY ESWT.

**LAKESIDE VILLAGE NO. 5**

M.J. BARKSDALE SURVEY ABSTRACT NO. 11

CITY OF ROCKWALL  
 ROCKWALL COUNTY, TEXAS

DATE: MAR, 1985

DRAWN BY: ENGINEER

MEMORANDUM

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TO: Julie Couch, City of Rockwall  
FROM: Pete Eckert  
RE: Lakeside Village - Proposed Vacation of Plat  
DATE: January 13, 1993

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As you know, a portion of the Lakeside Village Addition Plat is being proposed to be vacated. The vacation was approved by the Planning and Zoning Commission, but was denied by the Council based upon, to my understanding, an unclear presentation by the proponent and some opposition within the subdivision.

The vacation statute, Section 212.013 of the Local Government Code provides that a plat may be vacated at any time before a lot is sold. The same procedure for the approval of the original plat has to be followed in the vacation process.

The salient point is that the vacation process appears to leave little, if any, discretion on the part of the bodies responsible for plat review and approval, as long as the City's rules and regulations for submittal have been met and no appropriation of previously granted easements or rights-of-way has been made by the City or other public utility. However, I can find no Texas authority for that proposition, but a court is likely to apply the statute's plain meaning, which allows a proponent to so vacate.

It is my recommendation that if the plat vacation is resubmitted, it should be favorably considered as long as it is submitted properly. There is no legal requirement for notice to surrounding property owners and I would not advise expanding the statutory notice requirements for zoning, replats, etc., unless there is a specific Council policy direction to do so.

Please call if there are any questions.



# village voice

February 1993



FROM YOUR PRESIDENT

By Jack Matthews

There has recently been considerable activity (and far too many rumors) concerning the so-called Phase V of Lakeside Village. I therefore think it will be beneficial to relate all developments to date concerning Phase V.

Phase V is the vacant, undeveloped block of land that lies just left of the entrance to Lakeside Village and consists of approximately 19 acres. Phase V was platted in 1983 for 181 lots. Phase V is a part of Lakeside Village and is subject to our documents and covenants.

Sometime in early 1992, a local builder, John Sparks, met with the Board and stated that he was interested in purchasing Phase V and inquired whether the Board would agree not to assess dues on the property until certain stages of development and sales were completed. While the Board declined to make such commitment, the incident gave rise to a request by the Board to the law firm representing LVHA for a legal opinion clarifying our position with respect to dues assessments on Phase V.

Subsequent to the request for a legal opinion, but before the Board was able to review it or make any decisions, another prospective purchaser of Phase V approached the Board.

This second contact was made with the Board on 4-15-92. Mr. James Muns and two associates met with the Board just prior to the regular Board meeting on 4-15-92. Mr. Muns stated his interest in purchasing Phase V and described his desire to meet the Board as a "get acquainted" meeting. Mr. Muns asked what the Board thought community reaction would be and was told that any commercial development would meet significant opposition. No requests were made by Mr. Muns concerning dues, and no promises were made.

At the time of the meeting with Mr. Muns, Phase V was owned by RTC (Resolution Trust Corporation). To my knowledge, there had never been an assessment made on Phase V up to that time.

The legal opinion concluded that, while it would be very difficult to collect dues from RTC because of certain defenses peculiar ONLY to RTC, an argument could be made in support of assessing RTC. The opinion further stated that a much stronger case could be made for assessing Phase V if it were owned by a private investor rather than RTC.

After reviewing the legal opinion, our property manager and CMA were instructed to invoice RTC for the month of June 1992. Our office discovered after invoicing RTC that Mr. Muns had purchased Phase V from RTC in June. Our office then began invoicing Mr. Muns in July for the 181 lots included in Phase V.

During the next three to four months, Mr. Muns protested, both orally and in writing, that LVHA had no legal right to assess the property. Our response was that we had advice from our legal counsel that we did, indeed, have the right to assess the property; and, furthermore, would be in violation of our fiduciary duty if we failed to assess the property.

On or about December 1, Mr. Muns sued LVHA, claiming that we were interfering with his rights of ownership and disposition of the property. Concurrently, Mr. Muns requested the Court to temporarily enjoin LVHA from attempting to collect the dues we say he owes us to date. A hearing on the injunction was scheduled in December but was postponed to January 14, 1993. Prior to the January 14 hearing, an agreement was reached, under which LVHA agreed to temporarily suspend any action to collect the disputed dues until a trial is held to determine the legality of the assessment. The trial date is scheduled for February 4, 1993. Mr. Muns withdrew his request for a temporary injunction.

Our attorneys are preparing for the February 4, 1993 trial, and advise us that our chances of prevailing in the trial are very good. We are also advised by our attorneys that our legal defense costs in this matter will more than likely be covered by our insurance (although this is not definite).

We are aware that there is keen interest in this matter in our community, and we will thus endeavor to keep the community informed as new developments occur.



SPECIAL NOTES FROM LAKESIDE VILLAGE OFFICE

In 30 to 60 days, we will be beginning assigning new codes to all residents. You will be given two weeks notice. This is normal security maintenance. It will take time and much effort, so please be patient and cooperative.

Remember dues are now \$68.00 (beginning January 1st).

Board Meeting Agenda: February Agenda will be posted prior to the meeting.

Golf Cart Registration: Don't forget that all golf carts in Lakeside Village must be registered with the office.

ABSOLUTELY NO SIGNS are to be taped on any of the equipment at the gate.

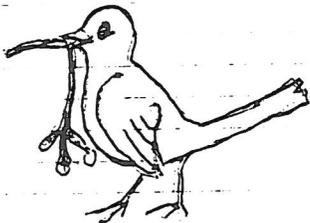
Reminder: Please do not put out trash more than 12 hours prior to pick up. Maintenance will identify violators and pictures will be taken, and violators may be fined \$35.00.

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"Lakeside Pride"

By Jack Ogilvie

"Believe it or not", spring is just around the corner! And hopefully with spring comes the urge to clean up and spruce up our nests.



Lakeside Village is a wonderful place to live. The hallmark of the community is the white stucco houses. Stucco is an almost indestructible exterior but it is susceptible to stains and mildew which can detract from its naturally attractive appearance. A wet year such as we are experiencing can magnify this problem. Many homeowners have already addressed this problem and those of us who take pride on the appearance of our community appreciate their efforts.

Unfortunately as homes are painted and cleaned they seem to draw more attention to those that still have unsightly stains. This makes it more important that the homes in need of repair and painting do not detract from the appearance of the community as a whole.

Last January a list of fifteen homes most in need was compiled and the homeowners were asked to perform needed maintenance. In May an additional ten homes were added to the list. The response was very gratifying and a great majority of the homes were immediately brought up to an excellent standard. Unfortunately others after a year or almost a year have not effected any improvement.

Many more homes in the Village have deteriorated during the year and are now in dire need of repair but it has been difficult to ask additional

cooperation until those homes originally notified are brought into compliance.

The LVBOD has the authority given it in the original CCRs to go on to the property, effect the needed repairs and bill the offending homeowners, but it has been felt that this drastic measure should have an alternate remedy.

At the January meeting of the LVBOD, the following motion was made and approved:

After notification of maintenance violation as determined by Lakeside Management, a friendly reminder will be sent. After 30 days, without suitable response, a warning letter will be sent by registered mail requesting a definite remedy and time schedule of needed repairs, being given 15 days to respond. If no suitable remedy is forthcoming notification will be sent to the Board members requesting Board action. If approved by LVBOD a fine of \$25.00 per month will be assessed, all privileges removed until repairs are completed and all accumulated fines are paid. Fines will be subject to late/finance charges commensurate with unpaid dues and may also become a lien against the property if not paid.

Immediate steps will be instituted to implement the above on those properties not in compliance.

On March 1st, twenty-five new names will be added to the list of homes that LV Management feels are most in need of maintenance. Hopefully by that time most of our homeowners will have already taken steps to cooperate in the "Lakeside Pride" campaign. The LVBOD urgently asks that you respond enthusiastically.

Those twenty-five homes deemed most in need of maintenance will be sent the "friendly reminder". We ask that those of you who receive one of these please take this notice as just that. Many homeowners will have already taken steps to correct their problems. Within 30 days, please contact the LV office with a plan or schedule to do the needed maintenance.

If no acceptable response is forthcoming the second notice will be mailed on April 1st by registered mail. If no acceptable response is received by April 15th, the LV office will refer the matter to the LVBOD for action.

If there are extenuating circumstances, an appeal may be made to a three-person committee appointed by the LVBOD President before the April meeting. Adequate notice must be given to schedule the meeting.

On April 21st the BOD will move to approve or disapprove revocation of privileges and fines of \$25.00 per month accumulative and subject to the same charges and interest as dues in arrears.

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