

**Commission on Common Ownership Communities**  
Montgomery County, Maryland

**In the Matter of**

Hunting Woods Homeowners Association	x
c/o The Management Group Associates, Inc.	x
Suite 250	x
One Bank Street	x
Gaithersburg, MD 20878,	x
<b>Complainant,</b>	x
	x
v.	x
	x
Alexander and Marina Muravchik	x
10213 Yearling Drive	x
Rockville, MD 20850,	x
<b>Respondents.</b>	x

Case No. 534-G  
July 10, 2002

**DECISION AND ORDER**

The above-captioned case, having come before the Commission on Common Ownership Communities for Montgomery County, Maryland, pursuant to sections 10B-5(i), 10B-9(a), 10B-10, 10B-11(e), 10B-12, and 10B-13 of the Montgomery County Code, 1994, as amended, and the Commission having considered the testimony and evidence of record, finds, determines and orders as follows:

**Background**

Hunting Woods Homeowners Association (Complainant), filed a complaint with the Commission on Common Ownership Communities (Commission) on July 25, 2001, alleging that Alexander and Marina Muravchik (Respondents) are regularly parking a commercial vehicle on their driveway within the community in violation of the Association's Declaration of Covenants, Conditions and Restrictions (Declaration). Mr. and Mrs. Muravchik, owners of 10213 Yearling Drive, a single family house in the Hunting Woods Homeowners' Association, responded promptly indicating that they were unaware of the prohibition against parking the van on the driveway and that Mr. Muravchik has a need to park the vehicle at his house on occasion.

Inasmuch as the matter was not resolved through mediation, this dispute was presented to the Commission for action pursuant to section 10B-11(e) of the Montgomery County Code on December 5, 2001, and the Commission voted that it was a matter within the Commission's jurisdiction. The case was scheduled for public hearing on February 27, 2002, and a public hearing was held on that date.

At the close of the hearing the Panel Chairwoman indicated to the parties that she intended to read available case law regarding whether the restriction against parking commercial vehicles set forth in the Declaration should be considered sufficiently without ambiguity to be enforceable and whether the provision extended to a public road. She offered to the parties the opportunity to submit any law applicable to those limited questions which they thought might be helpful. Both parties filed additional submissions.

### **Findings of Fact**

Mr. and Mrs. Muravchik purchased their house the Hunting Woods community in April 2000. Their house is located on Yearling Drive. The undisputed testimony of record is that Yearling Drive is a county owned and maintained road.

The record reflects that the Homeowners' Association has, since August 2000, tried to convince the Muravchiks to stop parking the commercial vehicle, which has been variously described as a van with a commercial sign and ladder rack, often with ladders mounted on it, and as similar to a passenger van without side or rear windows with a company logo on it, on his driveway. Mr. Muravchik has consistently indicated that there are occasions when he needs to have the van for work purposes and that he cannot park it in their garage because the entrance is not large enough.

The section of the Hunting Woods Declaration that has been referred to as applicable to this dispute is section 6.05, "Temporary Structures, Outbuildings and Recreational Equipment," which says:

No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other out-building shall be used on any Lot at any time as a residence either temporarily or permanently. No commercial vehicle, trailer, camper, recreational vehicle, boat or similar equipment shall be permitted to remain upon any property within the Property, unless placed or maintained within an enclosed garage or carport or in an area, if any, designated by the Board of Directors for such purpose. Further, other than as may be utilized by the Association or an Owner in the care and maintenance of the Property, no motorized vehicle may be used or maintained in the yards or sidewalks in the Property, nor shall any unregistered motor vehicle be permitted on the Property. The Association shall have the right to tow and remove from the Property (at the expense and risk of the owner of such vehicle) any vehicle in violation of this Declaration, provided that the Association has placed (or has caused to be placed) a notice of intent to tow at least forty-eight (48) hours prior to such towing.

The Hunting Woods Homeowners Association also has "Vehicle Rules and Enforcement

Procedures” which are marked as adopted March 18, 1996 and effective April 15, 1996. The opening clauses of the document cite Declaration provisions which relate to regulating parking within the common area. The paragraph which describes parking to be regulated is written so that it is not clear that it is intended to regulate parking other than on common property. The document does include a definition of “commercial vehicle” as “any vehicle greater than 1 Ton GVW and with commercial lettering or signage on the body”.

**Discussion  
and  
Conclusions of Law**

This is an instance in which reading in context or beyond the critical words may serve to introduce ambiguity. The most commonsensical reading of “No commercial vehicle...shall be permitted to remain upon any property within the Property,” is, as the Complainant has urged, that commercial vehicles may not be parked by residents or their guests or on a regular and consistent basis on a property within the development, since commercial vehicles are not commonly stored in residential areas. It is only when the whole section is considered that an ambiguity appears. However, even though reading the language of the section of the Declaration as a whole lends confusion, it does not create an ambiguity. In the absence of an ambiguity, it is not necessary to look beyond the applicable words. The Declaration is sufficient to bind purchasers to the agreement not to park commercial vehicles on property within the development.

Restrictive covenants that run with the land are both property interests and contracts. *Burns v. Scottish Development Co.*, 141 Md. App. 679, 694-695, 787 A.2d 786 (2001). Thus, it is possible to impute agreement to not park on a public street to the purchaser/owner of a property under a covenant prohibiting parking on the public street as was reportedly done in *Maryland Estates Homeowners' Association v. Puckett*, 936 S.W.2d 218 (Mo. Ct. App. 1996). The language of the covenant in the Hunting Woods document only reaches to property within the Property and thus does not apply to the public street.

**ORDER**

Based on the evidence contained in the record, and for the reasons set forth above, the Commission orders Mr. and Mrs. Muravchik to cease parking a commercial vehicle on their driveway at 10213 Yearling Drive.

The Commission declines to award fees or costs to either party.

The foregoing was concurred in by panel members Maloney, Subin and Stevens.

Any party aggrieved by the action of the Commission may file an administrative appeal to

the Circuit Court of Montgomery County, Maryland, within thirty (30) days from the date of this Order, under the Maryland Rules of Procedure.

A handwritten signature in cursive script, appearing to read "Dinah Stevens".

Dinah Stevens, Panel Chairwoman  
Commission on Common Ownership  
Communities