

# Resolution

## Clarifying Association members' rights regarding cutting or removing trees

**WHEREAS**, Article Eighteen of the Observation Pointe Covenants, dated January 8, 2007, entitled "Tree Cutting – Penalties" provides, in pertinent part,

No living tree with a trunk diameter of eighteen (18) inches or greater as measured three feet up from the ground shall be cut or have its roots or root system damaged except as approved in writing by the Architectural Control Committee.

and **WHEREAS**, Article Fifteen, Section 15.1 of the Observation Pointe Covenants, dated January 8, 2007, provides, in pertinent part,

Prior to construction of any improvements on a Lot, the Owner (other than Declarant) shall submit professionally prepared plans and specifications for the proposed construction to the Architectural Control Committee, in duplicate, with a \$200.00 fee, for approval, together with a site plan which shall show by location and type all trees having a diameter greater than eight (6) [sic] inches, and indicating thereon trees scheduled for removal. The plans shall include full landscaping details of the Lot, showing the type, size and location of all plants, trees and other plantings.

and **WHEREAS**, different interpretations have arisen as to when a member of Observation Pointe must seek permission from the Architectural Control Committee to cut or remove a living tree, the following question was submitted to John Grant, the attorney for the Observation Pointe Homeowners' Association, on August 21, 2015:

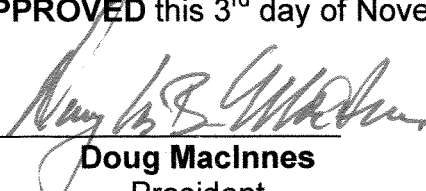
When must a member seek permission from the Architectural Control Committee to cut or remove a living tree?

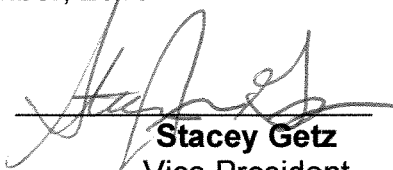
and **WHEREAS**, on September 14, 2015, John Grant, attorney for the Observation Pointe Homeowners' Association opined,


" . . . the plain language of Article Eighteen, which deals solely with tree cutting, is that living trees with a trunk diameter of eighteen (18) inches or greater (measured three feet up from the ground) require approval in writing by the Architectural Control Committee before they may be cut or removed. Living trees with a trunk diameter of less than eighteen (18) inches do not require approval by the Architectural Control Committee before they may be cut or removed."

**THEREFORE, BE IT RESOLVED** that hereinafter, the September 14, 2015 legal opinion provided by John Grant, attorney for the Observation Pointe Homeowners Association, regarding when a member of Observation Pointe must seek permission from the Architectural Control Committee to cut or remove a living tree, be adopted and become part of the official record of the Observation Pointe Homeowners' Association.

**APPROVED** this 3<sup>rd</sup> day of November, 2015.

  
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**Doug MacInnes**  
President  
Board of Directors

  
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**Stacey Getz**  
Vice President  
Board of Directors

  
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**Ian Bucataru**  
Secretary/Treasurer  
Board of Directors