



## CITIZENS' ASSOCIATION NEWSLETTER

March 2008

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Citizens' Association*

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<i>Steve Kunin, Doug Soe-Lin, Curt Hastings</i>	<i>Architectural Review Committee</i>

*Residents of Carderock Springs and surrounding areas may join the Citizens Association for annual dues of \$30 for a membership year ending December 31, 2008. Dues and family information for the Carderock Springs telephone directory may be mailed to the Carderock Springs Citizens' Association at P.O. Box 237, Cabin John, MD 20818-0237. Our Association represents the Carderock Springs community, and implements its land covenants.*

# SPECIAL MEETING

## Discussion of Litigation, 8209 Stone Trail Property

**Wednesday, March 26,  
7:00, at the Carderock  
Swim and Tennis Club**

The Carderock Springs Citizens Association (CSCA) reached a court-approved settlement on February 20 with Messrs. Bogart and Kurtz, the owners of the 8209 Stone Trail property. To answer community questions about the litigation and related issues, the CSCA will have a special meeting at the Club at 7:00 p.m. on Wednesday, March 26th.

The Board had reached an out-of-court settlement with the Stone Trail property owners, Messrs. Bogart and Kurtz, on the morning May 15th, 2007, before a scheduled court hearing seeking injunctive relief to prevent them from undertaking certain construction. That settlement included annotated drawings executed by the parties and an acknowledgment of the settlement by the owners' attorney. During the course of construction over the summer, it became apparent to the Board that details were

being installed that did not comply with the settlement; the CSCA accordingly filed a motion at court seeking enforcement of the settlement agreement. A hearing on this motion was held in December 2007 and included testimony from both sides. Following the hearing, the Judge encouraged the parties to explore a settlement, and specified February 20, 2008, as the date that she would issue a decision in the absence of a settlement.

At the February 20, 2008, hearing, the Judge stated clearly that, while she believed that the parties had made an agreement in May of 2007, and that the Stone Trail property owners had not complied with it, she was not going to order any changes to the exterior of the home. In taking this position, the judge stated, among other things, that whatever issues the Association and its Architectural Review Committee (ARC) may have had with the construction, the improvements in total benefited the community by increasing property values. The Judge did, however, invite the Association to seek monetary damages.

In light of this development, and at the Judge's direction, the parties met outside the courtroom and reached a settlement. The key points of the settlement are that the owners will build a portico over the front door to obscure the arch over the doorway and will remove the current divided glass on the front door and replace it with frosted glass. In addition, the Stone Trail property owners will pay the CSCA \$7,500 in damages.

After much thoughtful consideration, the Board supported a settlement

because we believe it is in the best interests of the community for several reasons. First, and most important, the judge made it quite clear that she would not order the Stone Trail property owners to make settlement-conforming changes to the property, but would consider only a monetary penalty. Second, the only alternative to reaching a settlement with the owners was to appeal the Judge's discretionary ruling. In our attorney's view, such an appeal would be expensive and there would be no guarantee that the Association would prevail. Thus, he strongly recommended that we try to reach a compromise with the owners rather than pursue costly litigation with an uncertain outcome. The settlement that was reached actually achieved more than damages to offset the community's legal expenses, in that it included some changes to the exterior of the house.

It is important to point out that the litigation was instigated by the homeowners, that they did not get the damages they sought, that they withdrew their challenge to the validity of the covenants, and that they did make various positive, albeit inadequate, changes to the exterior design of the home. This outcome would not have been possible without hard work by the ARC and, unfortunately, the necessity of expending substantial sums on litigation.

Looking at the bigger picture, the case illustrates, among other things, the shortcomings of the legal system in handling disputes of this kind. Voluntary resolution of disagreements has always been the goal of the ARC and the Board,

and the Board believes that, by and large, the system worked until the Stone Trail property owners filed a lawsuit against our community association.

That said, future legal disputes need to be anticipated as homes change hands, owners seek to make substantial improvements to aging housing stock and, too, as speculators who do not particularly care about our community and its covenants look at Carderock Springs as an attractive investment opportunity. In order to ensure that the community can protect itself against future construction that is in violation of the covenants, the Board believes that the community should consider creating a substantial legal fund. In the Stone Trail litigation, the community vigorously defended itself in major litigation that was quite costly.

Creation of such a fund does not signal any intention of the Board to increasingly seek litigated solutions. However, in light of the current case, CSCA may have little choice in the matter if it is to defend the community's interests. The Board's preference is to seek voluntarily compliance from all homeowners with the procedures set forth in our covenants for maintaining the character of the Carderock Springs neighborhood. However, without such a legal fund, the Board and the community's ARC face a very difficult task to enforce the covenants in a fair and effective way. In this regard, the Board invites those who may feel that the litigation was ineffective or unnecessary to actively participate in activities to help the community identify and implement more effective practices.

Finally, wholly apart from the Board's role in this matter, it is simply unreasonable to expect a volunteer body like the ARC to function without broad support from the community. Support occasionally includes endorsing the ARC's efforts and adhering to the new guidelines even when we might not be in complete agreement. In today's environment, support also means having the financial resources to back up the ARC's decision making.

There will always be disagreements between the ARC and owners seeking home improvements. With the exception of the current litigation, these differences have always been resolved voluntarily within the framework of our governing covenants and the ARC process. The recent adoption of Design Guidelines hopefully will facilitate that process. In any event, there can be little doubt that enforcement of the covenants in a way that balances the interests of the community and the desires of individual homeowners requires an active and experienced ARC that is supported by the community. Indeed, the community owes the current ARC an enormous debt of gratitude for the group's efforts under trying circumstances.

Finally, the board will continue to explore new avenues that, with community support, may strengthen the CSCA's ability to improve covenant compliance. We will be seeking interested members of the community to volunteer serve on one or more advisory committees to identify options that may reduce the necessity to seek litigated

remedies and/or increase the likelihood that community standards will prevail when challenged in court and elsewhere.

The Board invites all members of the community interested discussing the litigation and related issues to the special meeting on Wednesday, March 26th, at 7:00 p.m. at the Club. In order to ensure that all members of the community have an opportunity to share their views, we ask that each speaker be recognized by the Board's President, who will establish a time limit for remarks based upon the number of members wishing to be heard.

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# CSCA

## March Board Meeting

Wednesday, March 12,  
7:00 p.m. – 8:30 p.m.  
Carderock Swim and  
Tennis Club

# Annual Meeting

Sunday, April 20,  
Wine and Cheese, 6:30  
Meeting, 7:00  
Carderock Swim and  
Tennis Club

**Metal Recycling Challenge!**  
Carderock Springs vs Cabin John  
For information contact Martha  
Donnelly at [marthadonnelly@verizon.net](mailto:marthadonnelly@verizon.net)

The logo is a rectangular frame containing text and graphics. At the top, it says 'GREEN NEIGHBORS'. Below that, on the left, is a semi-circle with a star and the text 'CARDEROCK SPRINGS'. On the right, another semi-circle with a star and the text 'CABIN JOHN'. In the center, the words 'METAL RECYCLING CHALLENGE' are written vertically. To the right of the center, it says 'March 1-April 18, 2008'. At the bottom, it says 'REDUCE CARBON FOOTPRINT' and 'DONATED BY'. The background of the logo is filled with a repeating pattern of various household items like 'WASHER', 'DRIER', 'REFRIGERATORS', etc.