



1ST SESSION, 37TH LEGISLATURE, ONTARIO
48 ELIZABETH II, 1999

Bill Pr14

An Act respecting Blue Mountain Village Association

Mr. Murdoch

Private Bill

1st Reading November 23, 1999
2nd Reading
3rd Reading
Royal Assent

*(Reprinted as amended by the Regulations and Private Bills Committee and
as reported to the Legislative Assembly December 8, 1999)*

Printed by the Legislative Assembly of Ontario



EXPLANATORY NOTE

The purpose of the Bill is set out in the Preamble.

An Act respecting Blue Mountain Village Association

Preamble	<p>Blue Mountain Village Association has applied for special legislation to require all persons having a real property interest in the Blue Mountain Village to be members of the Association and to be bound by its by-laws and to give the Association a right to enforce members' financial obligations to the Association by registering a lien against their real property located in the Blue Mountain Village. The applicant represents that the Blue Mountain Village is to be a resort in the Town of the Blue Mountains. The applicant further represents that it is a corporation.</p> <p>It is appropriate to grant the application.</p> <p>Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:</p>	<p>(4) The letters patent of the Association are revoked, but their revocation does not affect the rights or obligations of the Association or any by-law or resolution of the Association except to the extent that it is inconsistent with this Act.</p> <p>(5) The Association shall be deemed to be a corporation incorporated by a special Act.</p>	<p>Letters patent revoked</p> <p>Special Act corporation</p>
Definitions	<p>1. In this Act,</p> <p>“Association” means Blue Mountain Village Association;</p> <p>“Blue Mountain Village” means the Blue Mountain Village resort located on resort land;</p> <p>“owner” means the owner of an estate in fee simple registered under the <i>Land Titles Act</i> or the <i>Registry Act</i>;</p> <p>“resort land” means the land described in the Schedule and land not described in the Schedule that is deemed to be resort land under subsection 5 (3), and includes each lot, condominium unit or other parcel into which such land is subdivided, but does not include land that is deemed not to be resort land under subsection 5 (4).</p>	<p>3. (1) The objects of the Association are,</p> <p>(a) to maintain and manage the resort land for which, pursuant to the by-laws of the Association, the Association has responsibility;</p> <p>(b) to promote and facilitate the development of the Blue Mountain Village;</p> <p>(c) to provide its members with services related to the operation of the Blue Mountain Village, including an integrated program of resort activities and promotional events, maintenance services, security services, reservation and information services and marketing services.</p> <p>(2) The Association shall be carried on without the purpose of gain for its members and any profits or other accretions to the Association shall be used in promoting its objects.</p>	<p>Objects</p> <p>Not to be carried on for gain</p>
Association continued	<p>2. (1) The Association is continued as a corporation without share capital under the name Blue Mountain Village Association.</p>	<p>4. (1) Every owner of resort land is a member of the Association.</p> <p>(2) The Association may also grant membership, in accordance with the by-laws of the Association, to a person who applies for it if the person,</p> <p>(a) owns or carries on a business on resort land;</p> <p>(b) leases resort land;</p> <p>(c) is an agent of an owner of resort land; or</p> <p>(d) belongs to a class of persons identified in the by-laws of the Association.</p>	<p>Membership</p> <p>Same</p>
Members continued	<p>(2) The persons registered as members of the Association immediately before this Act comes into force are continued as members of the Association.</p>		
Board of directors, officers continued	<p>(3) The members of the board of directors and officers of the Association in office immediately before this Act comes into force are continued in office until their successors are elected or appointed under this Act.</p>	<p>5. (1) An owner of land in the Town of the Blue Mountains that is not described in the Schedule may apply to the Association to agree that a specified lot, condominium unit or other parcel of land owned by the person in the</p>	<p>Application to include non-scheduled land as resort land</p>

	Town of the Blue Mountains will be treated as resort land.	between different classes of members;	
Application to exclude resort land	(2) A member of the Association may apply to the Association to agree that a specified lot, condominium unit or other parcel that is resort land owned by the member will not be treated by the Association as resort land.	(g) requiring that interest be paid on any late fees, and prescribing the rate of interest.	
Land deemed to be resort land	(3) The Association may approve an application under subsection (1), subject to any terms or conditions it considers appropriate and, upon approving an application, the specified lot, condominium unit or other parcel shall be deemed, for the purposes of this Act, to be resort land.	(3) If a class of members is affected differently than any other class of members by a by-law or resolution of the Association, the by-law or resolution may only be passed, amended or revoked with the approval of that class of members voting separately as a class.	Classes affected by by-laws, resolutions
Land deemed not to be resort land	(4) The Association may approve an application under subsection (2), subject to any terms or conditions it considers appropriate and, upon approving an application, the specified lot, condominium unit or other parcel shall be deemed, for the purposes of this Act, not to be resort land.	(4) The by-laws of the Association bind the Association and its members to the same extent as if the by-laws had been signed and sealed by the Association and each member and contained covenants on the part of the Association with each member and on the part of each member with every other member and with the Association to comply with all the by-laws.	By-laws binding on Association and members
Board of directors	6. (1) The composition and election or appointment of the Association's board of directors shall be as set out in the by-laws of the Association.	(5) In the event of a conflict between a municipal by-law that is applicable to the resort land and a by-law of the Association, the municipal by-law prevails.	Municipal by-laws prevail
Director need not be a member	(2) Despite subsection 286 (1) of the <i>Corporations Act</i> , a director of the Association is not required to be a member of the Association.	8. (1) A member, director or officer of the Association or any other person who, in the discretion of the court, is a proper person to make an application, may apply to the Superior Court of Justice for an order under this section.	Application for relief from oppression
By-laws	7. (1) The board of directors of the Association may pass by-laws necessary to manage the Association's affairs and carry out its objects.	(2) Upon an application under subsection (1), the court may make any order it considers appropriate to rectify the matter complained of if the court is satisfied that,	Same
Same	(2) Without limiting the generality of subsection (1), the board of directors of the Association may pass by-laws, <ul style="list-style-type: none"> (a) establishing classes of membership in the Association and governing the interests, rights and obligations of the members and of each class of members; (b) governing the admission of persons to membership in the Association and the termination of such membership; (c) governing the composition and election or appointment of the board of directors, including the election of directors by classes of members; (d) controlling the use of resort land; (e) governing applications under subsections 5 (1) and (2), including prescribing criteria for approving or refusing an application; (f) prescribing fees payable by the members, and in doing so, may differentiate 	<ul style="list-style-type: none"> (a) an act or omission of the Association effects, or threatens to effect, a result that is oppressive or unfairly prejudicial to, or unfairly disregards the interests of, any person referred to in subsection (1); (b) the business or affairs of the Association are, have been, or are threatened to be, carried on or conducted in a manner that is oppressive or unfairly prejudicial to, or unfairly disregards the interests of, any person referred to in subsection (1); or (c) the powers of the directors or members of the Association are, have been or are threatened to be exercised in a manner that is oppressive or unfairly prejudicial to, or unfairly disregards the interests of, any person referred to in subsection (1). 	
		9. (1) The resort land is subject to this Act and to the by-laws of the Association without special endorsement of the title, except as required by subsection (2).	Resort land subject to Act, by-laws

By-laws registered on title	(2) The Association shall register its by-laws on every title of resort land in the proper land registry office.	Same
Debt to Association	10. (1) A fee levied under the by-laws of the Association, together with any related interest and costs, constitutes a debt to the Association.	
Lien for unpaid fee	(2) If a member of the Association who is an owner of resort land defaults in the payment of any fee owed by the member to the Association, the Association has a lien against the member's resort land for the unpaid amount, the interest on the unpaid amount and all reasonable costs incurred by the Association in connection with the collection or attempted collection of the fee.	
Registration of lien	(3) The Association may register a notice of lien in the proper land registry office showing the amount of money owed under the lien as described in subsection (2) at the time of registration of the notice.	
Enforcement of lien	(4) A notice of lien registered under subsection (3) is a charge for the amount owing in favour of the Association on the resort land against which it is registered and may be enforced in the same manner as a mortgage and, for such purposes, Part III of the <i>Mortgages Act</i> applies with necessary modifications.	
Subsequent debts	(5) If a notice of lien is registered under subsection (3), no further registration is required in respect of a default in the payment of a fee occurring or continuing after the lien is registered.	
Discharge of lien	(6) Upon the payment of the debt and other amounts secured by the lien, the Association shall give the member a discharge of the lien.	
Application to court for removal of lien	(7) A member of the Association or other person claiming an estate or interest in or charge on resort land may apply to the Superior Court of Justice to require the Association to discharge a notice of lien registered under subsection (3) and the court may make any order it considers appropriate.	
Forms	(8) A notice of lien and discharge of lien shall be in Form 1 and Form 2 respectively, or in such other form as may be required by the Director of Titles appointed under the <i>Land Titles Act</i> .	
Owner and occupier jointly and severally liable for fees	11. (1) A member of the Association who is an owner of resort land and a member of the Association who leases, or who owns or carries on a business on, such resort land are jointly and severally liable to the Association for the payment of any fees, and related interest and costs, owed to the Association by the member who leases, or who owns or carries on a business on, the resort land.	
	(2) The Association may serve on a member of the Association who is an owner of resort land a notice of default of another member who leases, or who owns or carries on a business on, the member's resort land and if the amount owed is not paid within 10 days of the member who owns the resort land receiving the notice of default, the owner of the resort land is in default for the purpose of section 10.	
	12. (1) The Association shall, upon receipt of a written request and subject to subsection (2), give a status certificate with respect to a lot, condominium unit or other parcel of land that is resort land to any person who states in writing that the person is a member or potential member of the Association or a mortgagee or potential mortgagee of resort land.	Status certificate
	(2) A person shall only be entitled to receive a status certificate in respect of the lot, condominium unit or other parcel on which the person's membership or potential membership is based or in respect of which the person is a mortgagee or potential mortgagee.	Restriction
	(3) The Association may charge a reasonable fee for the provision of a status certificate, but the fee shall not exceed the fee that may be charged for a certificate under subsection 32 (10) of the <i>Condominium Act</i> or for a status certificate under subsection 76 (2) of the <i>Condominium Act, 1998</i> , whichever is in force at the time of the request.	Fee
	(4) The status certificate shall contain,	Contents
	(a) the date on which it was made;	
	(b) a statement of the fees payable in the current fiscal year of the Association with respect to the specified lot, condominium unit or other parcel and the arrears of fees, if any, with respect to the lot, condominium unit or other parcel;	
	(c) a statement of the number of subsequent fiscal years of the Association, if any, for which the fees payable in its current fiscal year, as required to be stated under clause (b), will continue to apply without change;	
	(d) if the statement required under clause (c) shows that the fees payable in the current fiscal year will not change for one or more subsequent fiscal years, an undertaking that the Association will conduct its operations during its current fiscal year and the subsequent fiscal years, as shown in the statement required under clause (c), in such a manner that at the end of such fiscal years the Association will not have a deficit;	

- (e) the amount of any entry fee payable on purchase and sale of the lot, condominium unit or other parcel;
- (f) the number of units attributable to the lot, condominium unit or other parcel for purposes of determining fees and voting rights;
- (g) the class of membership associated with the lot, condominium unit or other parcel;
- (h) a statement describing the voting structure of the Association, including the number of units and members in each class of membership as at the date of the most current budget of the Association;
- (i) a general description of the resort land, including the types and number of buildings, lots, condominium units and other parcels and of the recreational and other amenities and services provided by the Association, together with any conditions that apply to the provision of the amenities and services;
- (j) the address for service of the Association;
- (k) the names and address for service of the directors and officers of the Association, together with the class of membership that elected each director;
- (l) the names of the members of the Executive Committee of the board of directors of the Association or, in the event no Executive Committee has been created, a statement to that effect;
- (m) a copy of this Act and of the by-laws of the Association;
- (n) a statement of all outstanding judgments against the Association and the status of all legal actions to which the Association is a party;
- (o) the most recent annual audited financial statements and the auditor's report on the financial statements;
- (p) a description of the current insurance policies covering the Association; and
- (q) copies of any communications delivered during the current fiscal year of the Association to all the members of the Association or to all of any class of members of the Association.

Time limit

(5) The Association shall give the status certificate to the person who requested it within 10 days after receiving the request and the required fee and if it does not give the status certificate within that time, the Associ-

ation shall be deemed to have given a status certificate on the 11th day after receiving the request stating that there are no arrears of fees with respect to the lot, condominium unit or other parcel.

(6) If a status certificate that the Association has given under this section omits material information that it is required to contain, it shall be deemed to include a statement that there is no such information.

Omission

(7) The status certificate binds the Association as of the date it is given, or deemed to have been given, with respect to the information that it contains, or is deemed to contain, as against the person who requested the status certificate and as against any mortgagee of the lot, condominium unit or other parcel to which the status certificate relates.

Association bound by status certificate

13. (1) An owner of a lot, condominium unit or other parcel that is resort land shall, before entering into the first arm's length agreement for the purchase and sale of the lot, condominium unit or other parcel, deliver to the purchaser a status certificate of that lot, condominium unit or other parcel.

Status certificate to be given to first purchasers of resort land

(2) The Association shall, upon receipt of a written request from an owner described in subsection (1), deliver to the owner a status certificate of the lot, condominium unit or other parcel.

Same

(3) An agreement of purchase and sale described in subsection (1) is not binding on the purchaser until the status certificate is delivered to the purchaser as required by this section.

Purchase not binding until status certificate is delivered

14. (1) The Association shall not, in a status certificate,

False, misleading statements, omissions

- (a) make a material statement or provide material information that is false, deceptive or misleading; or
- (b) omit a material statement or material information that the Association is required to provide.

(2) A person described in subsection 12 (7) and a purchaser described in subsection 13 (1) may make an application to the Superior Court of Justice to recover damages from the Association for any loss sustained as a result of relying on a status certificate that the Association is required to provide under this Act if the status certificate,

Right to damages

- (a) contains a material statement or material information that is false, deceptive or misleading; or
- (b) does not contain a material statement or material information that the Association is required to provide.

Commence-
ment

15. This Act comes into force on the day it receives Royal Assent.

Short title

16. The short title of this Act is the *Blue Mountain Village Association Act, 1999*.

SCHEDULE

RESORT LAND

Firstly:

Part of Lots 17 and 18, Concession 1, the Town of the Blue Mountains (formerly the Township of Collingwood), County of Grey, designated as Parts 2, 3 and 4, Plan 16R-5057.

Secondly:

Part of Lots 17 and 18, Concession 1, the Town of the Blue Mountains (formerly the Township of Collingwood), County of Grey, designated as Part 5, Plan 16R-5057.

Thirdly:

Part of Lot 17, Concession 1, the Town of the Blue Mountains (formerly the Township of Collingwood), County of Grey, designated as Part 1, Plan 16R-3145.

Fourthly:

Part of Lot 17, Concession 1, the Town of the Blue Mountains (formerly the Township of Collingwood), County of Grey, designated as Parts 6, 7 and 8, Plan 16R-5057, and Part 22, Plan 16R-3495.

Fifthly:

Part of Lot 18, Concession 1, and Part of Lot 18, Concession 2, the Town of the Blue Mountains (formerly the Township of Collingwood), County of Grey, designated as Part 1, Plan 16R-5057.

Sixthly:

Part of Lot 18, Concession 1, the Town of the Blue Mountains (formerly the Township of Collingwood), County of Grey, designated as Part 4, Plan 16R-3772, save and except Grand Cypress Lane and Block 85, Plan 1078.

Seventhly:

Part of Lot 1, Registered Plan 1065, the Town of the Blue Mountains (formerly the Township of Collingwood), County of Grey, designated as Parts 4, 5 and 6, Plan 16R-3456.

Eighthly:

Part of Lot 5, Registered Plan 1065, the Town of the Blue Mountains (formerly the Township of Collingwood), County of Grey, designated as Part 2, Plan 16R-4038.

Ninthly:

Lots 6, 7, 9, 10, 11 and 12, Registered Plan 1065, the Town of the Blue Mountains (formerly the Township of Collingwood), County of Grey.

Tenthly:

Lot 14, Registered Plan 1065, the Town of the Blue Mountains (formerly the Township of Collingwood), County of Grey, save and except Part 1 on Plan 16R-3396.

Eleventhly:

Lot 15, Registered Plan 1065, the Town of the Blue Mountains (formerly the Township of Collingwood), County of Grey, save and except Parts 1-10, inclusive, and Part 15 on Plan 16R-3142.

Twelvethly:

Part of Village Crescent, Registered Plan 1065, the Town of the Blue Mountains (formerly the Township of Collingwood), County of Grey, designated as Part 2, Plan 16R-3396.

Form 1

*Blue Mountain Village Association Act, 1999*NOTICE OF LIEN UNDER
SUBSECTION 10 (3) OF THE ACT

Blue Mountain Village Association (the "Association") hereby gives notice that it has a lien under the *Blue Mountain Village*

Association Act, 1999 against
(Identification of resort land on which lien is claimed), registered in the Land Registry Office for the Land Registry (or Land Titles)

Division of for unpaid fees and any interest and costs in the amount of \$. at the date hereof and for such further amounts as are hereafter due and owing by to the Association and not paid.

Upon payment of all amounts owing to the Association, and upon demand, the Association will give the owner a discharge of the lien in the prescribed form.

Dated this day of, 200....

BLUE MOUNTAIN VILLAGE ASSOCIATION:

.....
Name
Office

.....
Name
Office

Form 2

*Blue Mountain Village Association Act, 1999*DISCHARGE OF LIEN UNDER
SUBSECTION 10 (6) OF THE ACT

Blue Mountain Village Association (the "Association") having received payment of all amounts owing to it secured by the lien referred to in the Notice of Lien registered as No. against

..... (Identification of resort land on which lien is claimed) registered in the Land Registry Office for the Land Registry (or Land Titles) Division of pursuant to subsection 10 (3) of the *Blue Mountain Village Association Act, 1999*, hereby discharges the lien.

Dated this day of, 200....

BLUE MOUNTAIN VILLAGE ASSOCIATION:

.....
Name
Office

.....
Name
Office