

COURT FILE NUMBER 2304 00645
COURT COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE GRANDE PRAIRIE

IN THE MATTER OF THE *LAND TITLES ACT*,
RSA 2000 c. L-4, AS AMENDED

IN THE MATTER OF THE MODIFICATION
OF CERTAIN RESTRICTIVE COVENANTS
REGISTERED ON TITLE TO LANDS
LOCATED IN THE SUBDIVISION OF
WEDGEWOOD IN THE COUNTY OF
GRANDE PRAIRIE NO. 1

APPLICANT(S) WEDGEWOOD HAMLET HOMEOWNERS
ASSOCIATION

DOCUMENT **ORIGINATING APPLICATION**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT BURNHAM LAW GROUP
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File No. 26833 TJB/jc
ATTN: TIMOTHY J. BURNHAM

NOTICE TO THE RESPONDENT(S)

This application is made against you. You are a respondent.

You have the right to state your side of this matter before the Court.

To do so, you must be in Court when the application is heard as shown below:

Date: November 6, 2023
Time: 9:00 AM
Where: Court House, Grande Prairie, Alberta
Before: Justice in Motions Court

Go to the end of this document to see what you can do and when you must do it.

Basis for this claim:

1. The Applicant is an Alberta Society made up of the homeowners of the Wedgewood Subdivision in the County of Grande Prairie No. 1 ("Wedgewood").
2. During the development of Wedgewood, various restrictive covenants were registered against the lots within Wedgewood to establish certain architectural and design standards to maintain the general character of the community, namely:



- a. Restrictive Covenant 152 159 093;
- b. Restrictive Covenant 942 275 087;
- c. Restrictive Covenant 972 145 018;
- d. Restrictive Covenant 922 221 745;
- e. Restrictive Covenant 892 341 666;
- f. Restrictive Covenant 892 176 032;
- g. Restrictive Covenant 902 086 921;
- h. Restrictive Covenant 982 087 948;
- i. Restrictive Covenant 982 181 128;
- j. Restrictive Covenant 002 227 758;
- k. Restrictive Covenant 992 245 954; and
- l. Restrictive Covenant 012 356 900.

(collectively, the "Restrictive Covenants")

3. The Restrictive Covenants contain, in part, restrictions concerning the roofing materials that are permitted within Wedgewood, and depending on the specific restrictive Covenant, include one or the other of the following provisions:
- a. "Only cedar shakes, cedar shingles, pine shakes, pine shingles or clay tiles shall be utilized as roof covering on the residence and garage."; or
 - b. "Only cedar shakes, cedar shingles, or clay tiles shall be utilized as roof covering on the residence and garage. For the initial residence to be constructed on the lands Wedgewood Developments Ltd. may approve an acceptable alternative product for roofing material other than asphalt shingles."

(collectively the "Roofing Material Clauses")

4. In response to the increase in forest fires in Alberta and British Columbia in recent years, and including the recent forest fires that threatened homes in the County of Grande Prairie No. 1, and noting the continuing risk of forest fires in the area immediately surrounding Wedgewood, the Applicant desires to modify the Restrictive Covenants to permit fire-rated roofing materials to be utilized on homes in Wedgewood, provided that those materials have the appearance of clay tiles, wood shakes or wood shingles to preserve the architectural and design standards already in place and to maintain the general character of the community.
5. The proposed modification to the Roofing Material Clauses of the Restrictive Covenants will be beneficial to the persons principally interested in the enforcement of the covenant, and the modification is in the public interest as it will materially reduce the risk of fire within Wedgewood from forest fires or from neighboring properties.

Remedy sought:

6. An Order:
 - a. Directing the Registrar of Land Titles, Land Titles Office to modify the Restrictive Covenants by modifying the Roofing Material Clause of each Restrictive Covenant with the following language:
 - i. Only cedar shakes, cedar shingles, pine shakes, pine shingles, clay tiles, or Class A fire-rated roofing materials that have the appearance of clay tiles, wood shakes or wood shingles shall be utilized as roof covering on the residence and garage. Any roofing material that was compliant with the Restrictive Covenant, as it was written prior to this amendment, shall continue to be permitted. However, any changes to the roofing material shall be made in compliance with this clause.
 - b. Directing the Registrar of Land Titles, Land Titles Office to register the modifications to the Restrictive Covenants notwithstanding section 191(1) of the *Land Titles Act*.
 - c. That the Order is not required to be served on any person.

Affidavit or other evidence to be used in support of this application:

3. Affidavit of James Hammond, filed.

Applicable Acts and regulations:

4. Land Titles Act, RSA 2000, c L-4, ss 48, 190, 191.

WARNING

You are named as a respondent because you have made or are expected to make an adverse claim in respect of this originating application. If you do not come to Court either in person or by your lawyer, the Court may make an order declaring you and all persons claiming under you to be barred from taking any further proceedings against the applicant(s) and against all persons claiming under the applicant(s). You will be bound by any order the Court makes, or another order might be given or other proceedings taken which the applicant(s) is/are entitled to make without any further notice to you. If you want to take part in the application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of this form. If you intend to give evidence in response to the application, you must reply by filing an affidavit or other evidence with the Court and serving a copy of that affidavit or other evidence on the applicant(s) a reasonable time before the application is to be heard or considered.