



TOLLGATE ASSOCIATION
Falls Church, Virginia 22046

October 30, 2006

Dear Kevin:

The Tollgate Board is unable to reimburse you for flood-related damage. As I stated in our first phone conversation concerning your demand, in neither the Indenture of Covenants nor the By-Laws does the Board have the authority or precedent to reimburse a homeowner for any damages.

In response to your claim, however, the Board hired G.J.B. Engineering, Inc. to perform a hydraulic analysis and to determine the probable cause of the June flooding. Several days ago we finally received the attached engineer's report. The Board is in unanimous agreement with the report's finding that the cause of the flooding was a surcharge of the storm-drainage system. The intensity of the rain over a relatively short duration overwhelmed the Tollgate system and relief occurred at the lowest elevation points. Unfortunately, the drain immediately outside your lower level is at such an elevation level that it became a relief point.

The engineers examined, at our request, the impact if any, of the landscaping timbers. It is their opinion that the flooding at your home was not due to any increase in flow from the landscape timbers.

At this time the Board would like to clarify certain misunderstandings included in your claims. A review of Association documents provides a historical time-line for the landscaping timbers. The installation of the timbers was clearly done only after a series of steps in compliance with Association practices. The request for action that ultimately led to the installation of the ties was made to the Board and referred to the Landscape Committee in June, 2000.

It is a matter of record that homeowners in the "affected" area were on the Landscape Committee at this time. The committee solicited professional opinions from several landscape companies and received bids from at least two, Living Color and PBL Landscape Professionals. The suggestions were reviewed and PBL's plan was chosen by the committee. It is also recorded that the plan was approved by the Board and presented to all homeowners at the November 12, 2000, Annual meeting with diagrams used in the presentation clearly showing the location of the proposed landscaping timbers. At the meeting there was an opportunity for discussion and the January 2001 Tollgate Fare announced the plan to the community. It is, therefore, inaccurate to avow that there was no notification or opportunity for opinions.

Since the installation of the landscaping timbers, there have been repeated efforts to address areas of concern. The work done to improve the erosion was discussed and approved at the Annual Meeting in 2003 and again at the Annual Meeting in 2004. In 2005, two special meetings were held to discuss the drainage issue. At those meetings the primary concerns were volume of runoff and erosion. Every good faith effort was made to modify the drain and the surrounding area to reduce erosion. Since the drain behind 108 was intentionally sited to lie in a low area to intake drainage from higher areas both west and north, it would, by design, naturally receive significant runoff. The number of paved courtyards along that pathway has increased significantly as well as modifications to properties on Broad Street, both contributing to increased runoff, since impervious surfaces can result in as much as 16 times more runoff than pervious surfaces. The Landscape Committee approved paving work to better channel the water and improve the drain area. The Landscape Committee and the Board took what they believed to be prudent action.

In your email of October 6, you refer to the rainfall during the “State of Emergency” on September 1, 2006. You incorrectly attribute a lack of flooding on that day to removal of the landscaping timbers. The rain of September 1st, was recorded in our area as 2.31 inches with a maximum precipitation of 0.22 inches/hour. There is no comparison to the rainfall of June 25 when 5.31 inches of rain fell with a maximum rate of 2.35 inches/hour. There was no flooding in September because the rainfall did not overwhelm the storm drainage system.

The Tollgate Board and Committees are made up of volunteers who agree to serve their community and take that responsibility seriously. We are your neighbors and felt very sorry when your home was flooded. To the best of our ability we tried to help both during the storms and afterwards. A great deal of time and attention has been given to this issue. Our next Board meeting is Saturday, November 4, at Bob Donaldson’s house, and you are welcome to place on the agenda any further discussion you feel is warranted.

Sincerely,

Marie Murray
President Tollgate Homeowners Association