

The Problem





Bob Kern <bob.kern@cooksvalleyhoa.com>

5/31/2020 5:25 PM

Re: Drainage issue

To Andy Price <andytaylorprice@gmail.com> Copy bob.kern@cooksvalleyhoa.com • Michael Krug <mike.krug@cooksvalleyhoa.com> • John Saari <john.saari@cooksvalleyhoa.com> • Eli Sbaity <eli.sbaity@cooksvalleyhoa.com> • Barbara Smith <barbara.smith@cooksvalleyhoa.com>

Andy,

Thank you for alerting me to this issue. I have copied the board and ACC on this to bring them into the loop. This issue will be addressed and we will bring you up to date as this moves forward.

Regards,

Bob

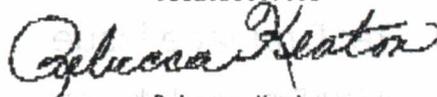
On May 31, 2020 at 4:29 PM Andy Price <andytaylorprice@gmail.com> wrote:

Sent from my iPhone

Bob



Deed Book 15526 Ps 2732
Filed and Recorded Apr-03-2018 03:49pm
2018-0041007
Real Estate Transfer Tax \$0.00
0332018007503



Rebecca Keaton
Clerk of Superior Court Cobb Cty. Ga.

After Recording Return To:
Troy King Law Firm
2440 Sandy Plains Road
Building 13, Suite 300
Marietta, GA 30066

JOINT TENANCY WITH SURVIVORSHIP QUITCLAIM DEED

STATE OF GEORGIA
COUNTY OF COBB

File No. 18-002

THIS INDENTURE, made this 30th day of March, 2018 between Lei Yang of the County of Cobb, State of Georgia, as party of the first part, hereinafter called Grantor, and Lei Yang and Aiping Guo, as parties of the second part, hereinafter called Grantees (the words "Grantor" and "Grantee" to include their respective heirs, successors and assigns where the context requires or permits).

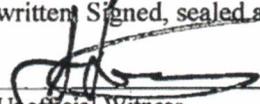
WITNESSETH that: Grantor, for and in consideration of the sum of one dollar (\$1.00) and other good and valuable considerations in hand paid at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, by these presents does hereby remise, convey and forever **QUITCLAIM** unto said Grantees, as joint tenants and not as tenants in common, for and during their joint lives, and upon the death of either of them, then to the survivor of them, in fee simple, together with every contingent remainder and right of reversion, and to the heirs and assigns of said survivor, the following property:

All that tract or parcel of land lying and being in Land Lot 50 of the 16th District, 2nd Section, Cobb County, Georgia, being Lot 45, Cooks Valley Subdivision, as per plat recorded in Plat Book 137, Pages 42-43, Cobb County, Georgia Records, which plat is incorporated herein by reference and made a part of this description, said property being known as 2566 Chestea Drive NE according to the present numbering system of numbering property in Cobb County, Georgia.

THIS CONVEYANCE is made subject to all zoning ordinances, easements, and restrictions of record affecting said bargained premises.

TO HAVE AND TO HOLD the said tract or parcel of land, with all and singular the rights, members and appurtenances thereof, to the same being, belonging, or in anywise appertaining, to the only proper use, benefit an behoof of the said Grantee forever in Fee Simple.

IN WITNESS WHEREOF, the Grantor has signed and sealed this deed, the day and year above written. Signed, sealed and delivered in the presence of:



Unofficial Witness

Notary Public

Lei Yang

(Seal)

Ihwa Wen <ihwa.wen@cbcmetrobrokers.com>

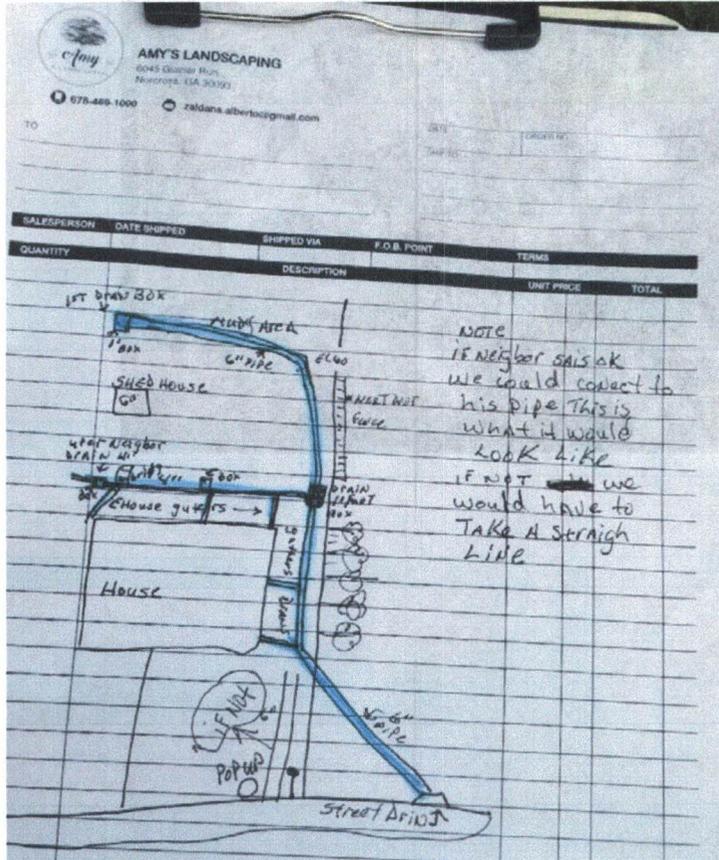
6/1/2020 11:20 PM

Mr. Yang

To cvhoa@cooksvalleyhoa.com <cvhoa@cooksvalleyhoa.com>

Here is a drawing of what they are going to do, including grading and installing Drain for the water issue. They also want to install a basketball court/ and fencing.

I have included 3 image for your review. Please call me. Sorry, my drawing is not perfect. Trying to give you idea of what the are doing. Once neighbor agree to the drainage, I will submit to county for final approval.

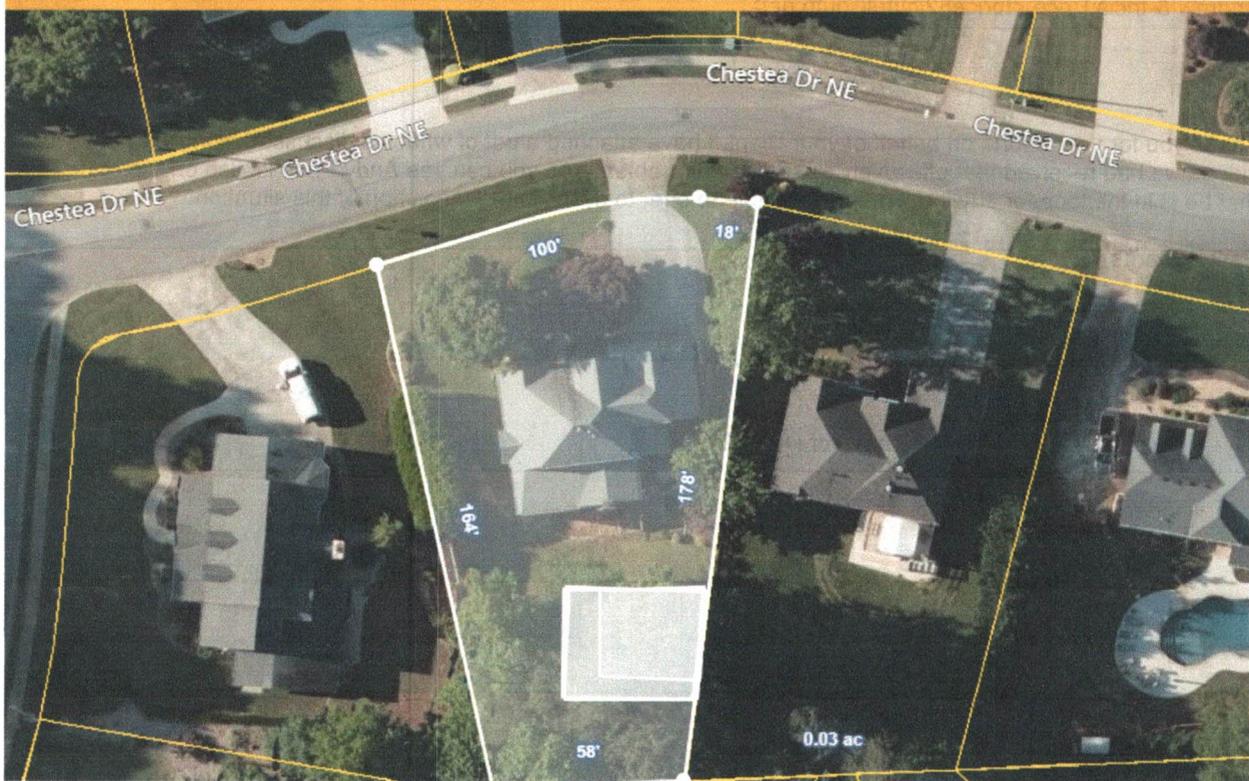






« BACK TO PROPERTY REPORT PROFILE & SETTING

Map for Parcel Address: 2566 Chestea Dr NE Marietta, GA 30066-6917 Parcel ID:



IHwa Wen

REALTOR

[Coldwell Banker Commercial Metro Brokers](#)
[Better Homes and Gardens Real Estate Metro Brokers](#)

404.843.2500 Office

678.499.3049 Cell

770.390.8287 Direct Line

770.491.1888 Fax

- 20200601_214608.jpg (285 KB)
- marietta.png (768 KB)
- 20200601_214608.jpg (285 KB)
- fence.png (664 KB)
- marietta.png (768 KB)

Bob Kern <bob.kern@cooksvalleyhoa.com>

6/1/2020 11:17 AM

2566 Chestea Drive

To Ihwa Wen <ihwawen@metrobrokers.com> Copy Eli Sbaity <eli.sbaity@cooksvalleyhoa.com> •
Andrew & tricia Price <tprice82@bellsouth.net>

Mr. Wen

Thank you for your efforts on behalf of your client. I have attached a pdf of what we discussed along with the two videos we had received that effectively illustrates the problem.. As you can see Andy Price is also on the cc; list so that he is in the loop for any input he may be able to offer to assist in the resolution of this situation.

Best Regards,

Bob Kern

Chairman ACC, Cook's Valley HOA Inc

-
- Ihwa Wen 2566 Chestea Drive.pdf (191 KB)
 - Video.mov (2 MB)
 - Video_1.mov (1 MB)

June 1, 2020

Mr. Wen,

Thank you for taking the time to contact Eli and me.

The following action, conduct or omission constitutes the violations we discussed that took place at 2566 Chestea Drive:

Removal of up to 30 trees from rear yard without securing authorization to do so from the ACC. This removal and subsequent damage to rear yard grading and drainage resultant from said removal unreasonably interferes with adjacent property owners' use of their property

This conduct and action violates the following provision(s) of the Declaration, Bylaws and/or Rules:

**ARTICLE VIII
GENERAL COVENANTS AND RESTRICTIONS**

Section 3. Nuisances.

(a) No unlawful, noxious or offensive activities shall be carried on in any Lot, or upon the Common Area, nor shall anything be done therein or thereon which, in the judgment of the Board, constitutes a nuisance, causes unreasonable noise or disturbance to others or **unreasonably interferes with Owner's use of their Lots and/or the Common Area.**

Section 5.

Erosion control. No activity which may create erosion or siltation problems shall be undertaken on any Lot without the prior written approval of the Architectural Control committee of plans and specifications for the prevention and control of such erosion or siltation. The Architectural Control Committee may, as a condition of approval of such plans and specifications, require the use of certain means of preventing and controlling such erosion or siltation. such means may include (by way of example and not of limitation) physical devices for controlling the run-off and drainage of water, special precautions in grading and otherwise changing the natural landscape.

Hopefully you can communicate the urgency of this matter to the Yangs so that they understand the importance that all work must be done within the framework of relevant laws (county, HOA) and that proper permits are acquired by competent contractors to do the necessary work to effectively resolve the problems.

We expect this to be accomplished within the next seven days from today.

Thank you for taking the time to assist the Yangs and the Cook's Valley Home Owners' Association in an effort to resolve these problems.

Best Regards,

Bob Kern
Chairman Architectural Control Committee
Cook's Valley Home Owners' Association Inc.

cc: Eli Sbaity
Andy Price 678-725-5765

2566 Chestea Drive Request workup as Submitted by Ihwa Wen of Metro Brokers for the Yangs

Basketball Court



From the sat shot with dimensions the basketball court appears to be 33.3' on the 178' side and 43.5' on the 58' side which would translate into 1448 sq. ft which would provide an additional flat impervious surface and add to the current drainage problem and negatively impact the neighbors downstream. Additionally this installation would also serve as a noise nuisance

Article VIII, Section 3. Nuisances.

(a) No unlawful, noxious or offensive activities shall be carried on in any Lot, or upon the Common Area, nor shall anything be done therein or thereon which, in the judgment of the Board, constitutes a nuisance, causes unreasonable noise or disturbance to others or unreasonably interferes with Owner's use of their Lots and/or the Common Area.

My recommendation is to deny this request.

Fence request



— recommend approval if it complies with Cobb County

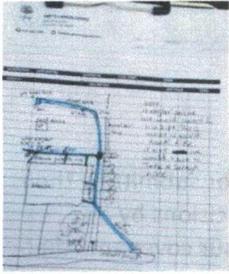
Any fence or wall adjacent to a public road right-of way and within a residential front yard cannot be more than six feet in height. Fences and walls shall be maintained in structurally sound condition. Fences or walls at the rear of a residence cannot exceed eight feet in height. The height limitation includes posts and ornaments on top of the fence or wall.

& Cook's Valley requirements

Article VIII, Section 9 is hereby amended by deleting this Section in its entirety and replacing it with the following:

Section 9. Fences no fence or wall of any kind shall be erected, maintained, or altered on any Lot without the prior written approval of the Architectural Control Committee of plans or specifications for such fences and walls. **All fences approved must be installed "finished side" out. Chain Link and wire Fences are not permitted. Those installed on Lots 27 & 46 in Phase 1 are grandfathered by this amendment. If these fences are replaced in the future, however, the replacements must be compliant with this amendment.** Fences constructed of wood will be allowed for rear and side yards, provided said wooden fences are level at the top, or gradually sloping on a line and otherwise approved by the Architectural Control Committee.

Abating drainage issue



This I am working on I have not found anything on Amy's Landscaping

Stormwater Management (770) 419-6454 david.breaden@cobbcountry.org

I believe is the proper contact to define what needs to be done to abate this problem. I left a voicemail for him to return my call.

Mr. Ihwa Wen
Metro Brokers Realty
Lie Yang
2566 Chestea Drive
Marietta, GA 30066

Mr. Wen

Thank you for taking the time to work with the Yangs in working through the drainage situation and for submitting their requests to build a basketball court in their rear and also a fence alongside the Price property. The decisions by our Architectural Control Board (ACC) are noted below along with the article, section, and subsection of our covenants that addresses each request.

Basketball Court



THIS REQUEST WAS DENIED IN A VOTE BY THE ACC THIS MORNING – JUNE 3, 2020 for the reasons stated below:

From the sat shot with dimensions the basketball court appears to be 33.3' on the 178' side and 43.5' on the 58' side which would translate into 1448 sq. ft which would provide an additional flat impervious surface and add to the current drainage problem and negatively impact the neighbors downstream ("abating drainage issue" below). Additionally this installation would also serve as a noise nuisance

Article VIII, Section 3. Nuisances.

(a) No unlawful, noxious or offensive activities shall be carried on in any Lot, or upon the Common Area, nor shall anything be done therein or thereon which, in the judgment of the Board, constitutes a nuisance, causes unreasonable noise or disturbance to others or unreasonably interferes with Owner's use of their Lots and/or the Common Area.

Section 14. Recreational Equipment. No recreational and playground equipment shall be placed or installed on any Lot which is visible from the street abutting such Lot on the front of said Lot. However, the placement of a basketball goal in a side yard location shall be permissible.

Fence request



THIS REQUEST WAS APPROVED BY THE ACC

–if it complies with Cobb County

Any fence or wall adjacent to a public road right-of way and within a residential front yard cannot be more than six feet in height. Fences and walls shall be maintained in structurally sound condition. Fences or walls at the rear of a

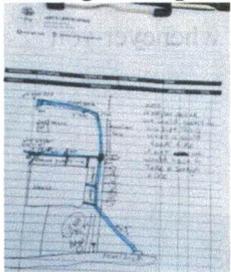
residence cannot exceed eight feet in height. The height limitation includes posts and ornaments on top of the fence or wall.

And complies with Cook's Valley HOA requirements

Article VIII, Section 9

Fences no fence or wall of any kind shall be erected, maintained, or altered on any Lot without the prior written approval of the Architectural Control Committee of plans or specifications for such fences and walls. All fences approved must be installed "finished side" out. Chain Link and wire Fences are not permitted. Those installed on Lots 27 & 46 in Phase 1 are grandfathered by this amendment. If these fences are replaced in the future, however, the replacements must be compliant with this amendment. Fences constructed of wood will be allowed for rear and side yards, provided said wooden fences are level at the top, or gradually sloping on a line and otherwise approved by the Architectural Control Committee.

Abating drainage issue



This issue was caused by the unauthorized removal of numerous trees (approximately 30 per the contractor) – see Section 19 below

Article VIII, Section 5. Erosion control. No activity which may create erosion or siltation problems shall be undertaken on any Lot without the prior written approval of the Architectural Control committee of plans and specifications for the prevention and control of such erosion or siltation. The Architectural Control Committee may, as a condition of approval of such plans and specifications, require the use of certain means of preventing and controlling such erosion or siltation. such means may include (by way of example and not of limitation) physical devices for controlling the run off and drainage of water, special precautions in grading and otherwise changing the natural landscape.

Section 19. Trees and Shrubs. No trees measuring twelve (12) inches or more in diameter at a point two (2) feet above ground level, no flowering trees or shrubs, nor any evergreens on any Lot may be removed without the prior approval of the Architectural Control Committee unless located within ten (10) feet of the approved site for a dwelling or within the right-of-way or walkways. Excepted here from shall be damaged for dead trees and trees which must be removed due to an emergency.

Stormwater Management (770) 419-6454 david.breaden@cobbcounty.org

I believe is the proper contact to define what needs to be done to abate this problem. I left a voicemail for him to return my call. David returned my call on Tuesday June 3rd. I emailed him the rough drawing I received from Andy as he requested. I have copied you, the Yangs, Eli and Andy Price on this – to keep all involved in the loop. This will be major undertaking and we want to be sure it is done properly. I spoke again with David this morning and he plans to come out next week to take a look. In reference to Andy's drawing, he said he looks to be a private system – his visit is to confirm that.

Once a path has been defined to resolve this problem, the homeowner is to submit final plans that in addition to the drainage solution plans, include confirmation of communication with the county, any permits that may be required and agreement by Andy Price. No work is to begin until written approval is given by the Cook's Valley HOA ACC.

June 2, in a text you requested the information in our covenants addressing the issues at hand, and the function(s) of the ACC.. June 3rd I sent you a file of our covenants containing that information and which I have also attached to this email which has extracted the relevant portions of our covenants.

ARTICLE .II.
ARCHITECTURAL CONTROL COMMITTEE

Section 1. Purpose, Powers and Duties of the Architectural Control Committee. The purpose of the Architectural Control Committee is to assure that the installation, construction or alteration of any Structure on any Lot is submitted to the Architectural Control committee for approval (i) as to whether the proposed installation, construction or alteration is in conformity and harmony of external design and general quality with the existing standards of the neighborhood and with the standards of the development of the property; (ii) as to the location of structures with respect to topography, finished ground elevation and surrounding structures. To the extent necessary to carry out such purpose, the Architectural Control Committee shall have all of the powers and duties to do each and everything necessary, suitable, convenient or proper for, or in connection with or incidental to, the accomplishment of such purpose, including, without being limited to, the power and duty to approve or disapprove plans and specifications for any installation, construction or alteration of any structure on any Lot.

The easiest rule to follow, that will save a lot of problems is to submit an ACC change request whenever you are planning to do anything outside. This is located at <http://cookvalleyhoa.com/cookvalleychangerequestform.html>

This is simple, quick and saves a lot of headaches for all involved.

Thanks again for your efforts in this matter

Regards,

Bob Kern
Chairman ACC, Cook's Valley HOA

Cook's Valley Home Owners' Association
cvhoa@cooksvalleyhoa.com

June 16, 2020

Lei Yang & Aiping Guo
2566 Chestea Drive
Marietta, GA 30066

As noted in our response to your text on June 12, 2020, your request was sent out to the Board and Architectural Control Committee (ACC). Their response was unanimous - that while you can choose to grade the sides of your property to redirect the run-off flow back onto your property, you are still strongly advised to contact a landscaper capable of doing the job as defined by Cobb County with the recommended diameter pipe following the following steps listed below as outlined in our earlier letter:

1. You are to instruct a Landscaping contractor of your choice (strongly recommend one that is licensed and insured) to contact David Breaden (770-419-6454) and discuss this project and the specifications of the pipe required to collect the anticipated water volume.
2. Complete an application with the Community Development department at Cobb County. A detailed plan of the work to be completed should be submitted with the application.
3. No work is to begin on this lot until the application is approved by Cobb County.
4. The recommended approach is to use an 18" pipe and connect it to the county's catch basin. Since the pipe's path will go thru the adjacent owner's lot (Andy & Trisha Price) it will require their approval before the work begins.

Following the above steps will allow you to arrive at the cost to do the project correctly. Once the drain pipe is installed the land will still need to be graded and sodded. This situation was caused by the unapproved clearing of trees from your rear yard and must be corrected. We expect this problem to be resolved to the satisfaction of Cobb County, Andy & Tricia Price, and Cook's Valley HOA by October 1, 2020. Page 2 is a position statement from Andy Price addressing this issue dated. It is clearly stated and would be acceptable to Cook's Valley HOA.

Sincerely,

Eli Sbaity
President
eli.sbaity@cooksvalleyhoa.com

Bob Kern
Chairman ACC
bob.kern@cooksvalleyhoa.com

Cc: Ihwa Wen ihwa.wen@metrobros.com
David Breaden david.breaden@cobbcounty.org
Andy & Tricia Price andytaylorprice@gmail.com

COOK'S VALLEY HOME OWNERS' ASSOCIATION INC.

cvhoa@cooksvalleyhoa.com

June 12, 2020

Lei Yang & Aiping Guo
2566 Chestea Drive
Marietta, GA 30066

Summarizing the meeting we had on June 9th with David Breaden (david.breaden@cobbcounty.org), Manager, Cobb County Storm Water Management Department to address the large volume of storm water flowing through the adjacent neighbor's property. This situation was caused by the unapproved clearing of trees from your rear yard and must be corrected. This meeting was attended by Aiping Guo (Eric), Ihwa Wen realtor/translator on speaker phone (ihwa.wen@metrobroskers.com), neighbors Andy & Trisha Price (andytaylorprice@gmail.com) adjacent neighbors, Eli Sbaity, President Cook's Valley HOA (eli.sbaity@cooksvalleyhoa.com) and Bob Kern, Chairman Architectural Control Committee, Cook's Valley HOA (bob.kern@cooksvalleyhoa.com). The actions we agreed on necessary to abate this problem are summarized below:

1. You are to instruct a Landscaping contractor of your choice (strongly recommend one that is licensed and insured) to contact David Breaden and discuss this project and the specifications of the pipe required to collect the anticipated water volume.
2. Complete an application with the Community Development department at Cobb County. A detailed plan of the work to be completed should be submitted with the application.
3. No work is to begin on this lot until the application is approved by Cobb County.
4. The recommended approach is to use an 18" pipe and connect it to the county's catch basin. Since the pipe's path will go thru the adjacent owner's lot (Andy & Trisha Price) it will require their approval before the work begins.

David Breaden (770-419-6454) should be contacted by your contractor within the next seven days so that this may move forward ASAP and abate the problem at hand. Please keep all on this copy list informed of your actions as they are taken. So that we know you are sincerely working on resolving this situation as soon as possible. Regarding the safety of your children as mentioned in your text message to me this afternoon, the ACC suggests you take all precautionary measures you determine necessary to protect your family. For this project to be approved by the ACC it must follow the steps as outlined above

Sincerely,

Eli Sbaity
President

Bob Kern
Chairman ACC