



WESTVILLE ESTATES COMMUNITY ASSOCIATION, INC.
Chelsea Drive
Danbury CT 06811

PETITION

We, the undersigned homeowners and residents of Chelsea Drive, also known as Westville Estates, respectfully request that The Common Council of the City of Danbury acquire ownership and responsibility for Lot F14123-102678.

Appended hereto is an explanation of our position.

#2 Edward Blake
Sylvia Blake

Edward Blake
Sylvia Blake

#3 Chris Burns
Cathy Burns

#4 Charles Reilly
Mary Reilly

#5 Daren Anderson
Melissa Anderson

Daren Anderson
Melissa Anderson

#6 Edward Edmonds
Anne Edmonds

#7 Nino Desposati
Nadine Desposati

Nino Desposati
Nadine Desposati

#8 Randy Wheaton
Karen Wheaton

Randy Wheaton
Karen Wheaton

#9 Kenneth Malchisky
RuthAnn Krohn

Kenneth Malchisky
RuthAnn Krohn

#10 Rick Bowers
Barbara Bowers

Rick Bowers
Barbara Bowers

#11 Mark Schleider
Rachel Berson

Mark Schleider
Rachel Berson

#12 Michael Hudak
Cynthia Hudak

Michael Hudak
Cynthia Hudak

#13 James Forte
Denise Panza

James Forte
Denise Panza

#14 Victor Handal

Victor Handal

#15 Michael Riggs
Julie Riggs

Michael Riggs
Julie Riggs

#16 Cheung Tak Chan
Chiu Chan

Cheung Tak Chan
Chiu Chan

#18 Michael Fitzgerald
Kathy Fitzgerald

Michael Fitzgerald
Kathy Fitzgerald

#20 Edward Jensen
Claudia Jensen

Edward Jensen
Claudia Jensen

#22 Kristian Barletti
Jill Barletti

Kristian Barletti
Jill Barletti

WESTVILLE ESTATES COMMUNITY ASSOCIATION, INC.
Chelsea Drive
Danbury CT 06811

The Westville Estates Community Association, Inc. (hereinafter referred to as the Association) was created by Toll Brothers, Inc. in 1999. As stated in the Declaration and Public Offering Statement, Westville Estates is a common interest community, which includes planned community forms of ownership of real estate. This form of ownership requires the owner of a lot to pay maintenance charges and other expenses attributable to parts of the community other than each individual's lot. The maintenance charges assessed by the Association involve expenses for liability insurance, and maintenance of open space areas and detention basins within the community. Common elements consist of three detention basins, storm water structures and spillways, and open space.

The City of Danbury mandated the building of detention ponds on the site, pursuant to the proposed land usage. The sole reason for the creation of a "homeowners' association" was to transfer the responsibility for said ponds out of Toll Brothers' hands. None of the members of the Association want it.

In 2003, Toll conveyed all remaining assets to the Association, and we assumed the maintenance, liability, taxes, and other costs. At the same time, we began making inquiry into the steps needed to divest ourselves of the common elements, and have the city take them over.

In the process of learning how to give this land to the city, we discovered that various small pieces of property which Toll Brothers promised to convey to surrounding homeowners were never conveyed. We were told that one owner of a pre-existing neighboring home refused the additional footage.

We also learned that Toll Brothers constructed a detention pond, the location of which we were never informed. Therefore, that pond was not mowed in the 2003 season.

In 2003, parcel #F14113 was removed from the tax rolls, and designated as open space. When the assessor's office was asked why one and not the other, the answer was that is was a "good question" and they'd "get back to us".

Originally, Toll Brothers was to have a second, 13 lot, phase of development, Westville Estates II, located on Logan's Way, which they ultimately declined to do. Those lots were developed by others. They have no homeowners' association, and the detention pond there has turned into a swamp, and breeding ground for insects, including possibly mosquitos carrying West Nile Virus. City Attorney Eric Gottschalk said "the retention basins are an eternal maintenance responsibility and includes the possibility that it could do great damage if it escapes". We believe at least two of our homeowners are at risk from this danger.

We do not feel we are being treated equally (as provided for in the Fourteenth Amendment of the Constitution). As previously noted, the Logan's Way homeowners were not coerced into an unwanted homeowners' association, nor do they pay any common charges. Most homeowner and condo associations own common elements such as a clubhouse, a pool, a tennis court, etc. We have no such amenities, which would make an association a valid choice; we have a costly, unwanted burden, with no redeeming value.

Older, pre-existing, neighboring homes (in closer proximity than most of our homes) receive

the "benefits" of the subject ponds, but do not contribute to their upkeep. If a neighbor could, in fact, "refuse" to have additional footage added to his property, then why can't we?

Until 2001, Chelsea was a private road. During those early years, the City did not plow, pick up leaves, or provide street signs. Deliveries were often lost. Our homeowners were assessed a full tax bill despite receiving less than all city services to which they were entitled. We would like to point out that we pay far above the average tax bill for similarly sized houses in the city. The city collects somewhere between \$150,000 and \$175,000 a year in property taxes from Westville Estates' owners, most of whom vote.

In March, 2004, Mr. Randy Wheaton, Vice-president of the Board at that time, wrote a letter to the Common Council, offering to donate the common elements on Chelsea Drive to the city. On May 8, he received a letter stating that there would be a hearing on May 10 of a Common Council subcommittee to consider our donation. Three of our residents appeared, and were told that a letter had been sent postponing the meeting, as the City Engineer could not attend. We were told the hearing would be rescheduled. When we inquired on May 27 about a new hearing date, we were informed that the hearing had already taken place on May 24, and a decision reached not to accept the land. Whatever the lack of communication, we were not heard.

We want the City of Danbury to adopt the unwanted orphan properties for the following reasons:

- The city already has a comprehensive master liability policy, which would incur no additional premiums for the city. In 2003, we paid \$3100 for insurance. This included a Directors & Officers Liability Policy we would not need if we disbanded the Association. In 2004, the same coverage would have been \$4200, and this exorbitant increase caused us to have to reduce the policy limits.
- In 2003, we paid \$1500 for mowing the grass around the ponds, and \$2175 in 2004. To date, in 2005, we have already paid \$2250.
- The Parks Department currently maintains other detention ponds around the city, and does other maintenance work here already, and thereby, the only additional cost to the city would be the gasoline.
- The loss to the city in taxes on this parcel would be negligible, totaling \$78.06 for 2004.
- Possible public health issues, like standing water, should be in the public domain, and not left to private individuals.
- If parcel F14113 is public space, then this one should be open space as well.

We therefore request that the City of Danbury formally take title to the above-mentioned common areas and associated detention ponds. We feel the public interest of all the citizens of Danbury is best served by having City government maintain the infrastructure.



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CITY OF DANBURY

155 DEER HILL AVENUE

DANBURY, CONNECTICUT 06810

COMMON COUNCIL

REPORT

June 2, 2004

Mayor Mark D. Boughton
Members of the Common Council

Re: **Offer from Westville Estates to Donate Land to the City**

The Common Council Committee appointed to review the request from Westville Estate to donate land to the City met on May 24, 2004 at 6:00 P.M. In attendance were committee members Nolan and Esposito. Also in attendance were Director of Finance Dena Diorio, Deputy Corporation Counsel Eric Gottschalk, Tax Assessor Colleen Velez, and Council Members Saracino, Seabury and Teicholz, ex-officio.

Mr. Nolan noted the negative report from the Planning Commission. Attorney Gottschalk stated that all parcels of land are unique and it is difficult to draw a general rule. Open space parcels exist all over the City. The general rule is that we do not acquire them. They pose a liability and acquiring them poses no great benefit to the City.

Ms. Velez said that there are several pieces being offered, one for open space and others being parcels "X" and "Y". Ms. Velez said there is no tax due on the open space parcel and about \$90 per year on the other parcels. Ms. Diorio stated that there are retention ponds on the open space parcel and it would present a significant liability to the City if we accept them. Attorney Gottschalk stated that the retention basins are an eternal maintenance responsibility and includes the possibility that it could do great damage if it escapes.

Mr. Esposito made a motion to recommend to the Common Council not to accept the offer of land and to take no action at this time. Seconded by Mr. Nolan. Motion carried unanimously.

Respectfully submitted,

VINCENT NOLAN, Chairman

WANDA PAYTON

JOHN ESPOSITO