



**Council of Civic Organizations of Brandywine Hundred**  
*The conscience of the community since 1928*

# **Welcome to the CCOBH Seminar:** **“Homeowners and Civic Associations: The Basics”**

Monday, September 22nd at 6:00 PM  
First Unitarian Parish Hall



*seminar  
series*

**CCOBH.org**

*Brandywine Hundred's Non-partisan Community Watchdog*



# CCOBH'S MISSION



CCOBH.org

*To protect and enhance the quality of life and wellbeing  
of the people and communities of Brandywine Hundred*



# BRANDYWINE HUNDRED:

- Population: Approximately 84,000 – Delaware's most populous district
- Over 120 Civic and Homeowners' Associations
- NCC Council Members:
  - Dee Durham - County Council District 2
  - John Cartier - County Council District 8



- State Representatives
  - Debra Heffernan - District 6
  - Larry Lambert - District 7
  - Melanie Ross Levin- District 10
  - Krista Griffith - District 12
- State Senators
  - Daniel Cruce- District 1
  - Laura Sturgeon - District 4
  - Ray Seigfried- District 5



# Current Major Concerns:

- Traffic Congestion, Safety, and Development on major roads such as Concord Pike
- Land Use & Development Projects such as:
  - Open Space, Mixed Retail/Office/Residential Use
  - Brandywine Country Club
  - Port of Edgemoor
  - Incyte/Alapocas & Forwood Reserve
  - Concord Mall
  - Avenue North
  - Strip Malls
  - and more
- Air & Water Issues and Toxic Emissions near residents, such as:
  - Shellpot Creek – Shellpot Creek Hydraulic Study, Waterflow & Flooding
- Historic & Heritage Preservation
- Informational & Educational Outreach to Brandywine Hundred Residents through Public Forums -- *Stay tuned: More meetings will be scheduled in 2026*



# House Keeping Rules

- **Thank you** all for coming this evening.
- **Restroom Locations** – There are 2 locations close to where we are: In the room to the right of the Parish Hall, and outside the double doors, then down the stairs.
- **Departure time** – To allow the custodians to do their jobs before their shift ends, we must empty the premises before 8:30 pm.
- We thank the First Unitarian Church staff for letting us use this space for this meeting.

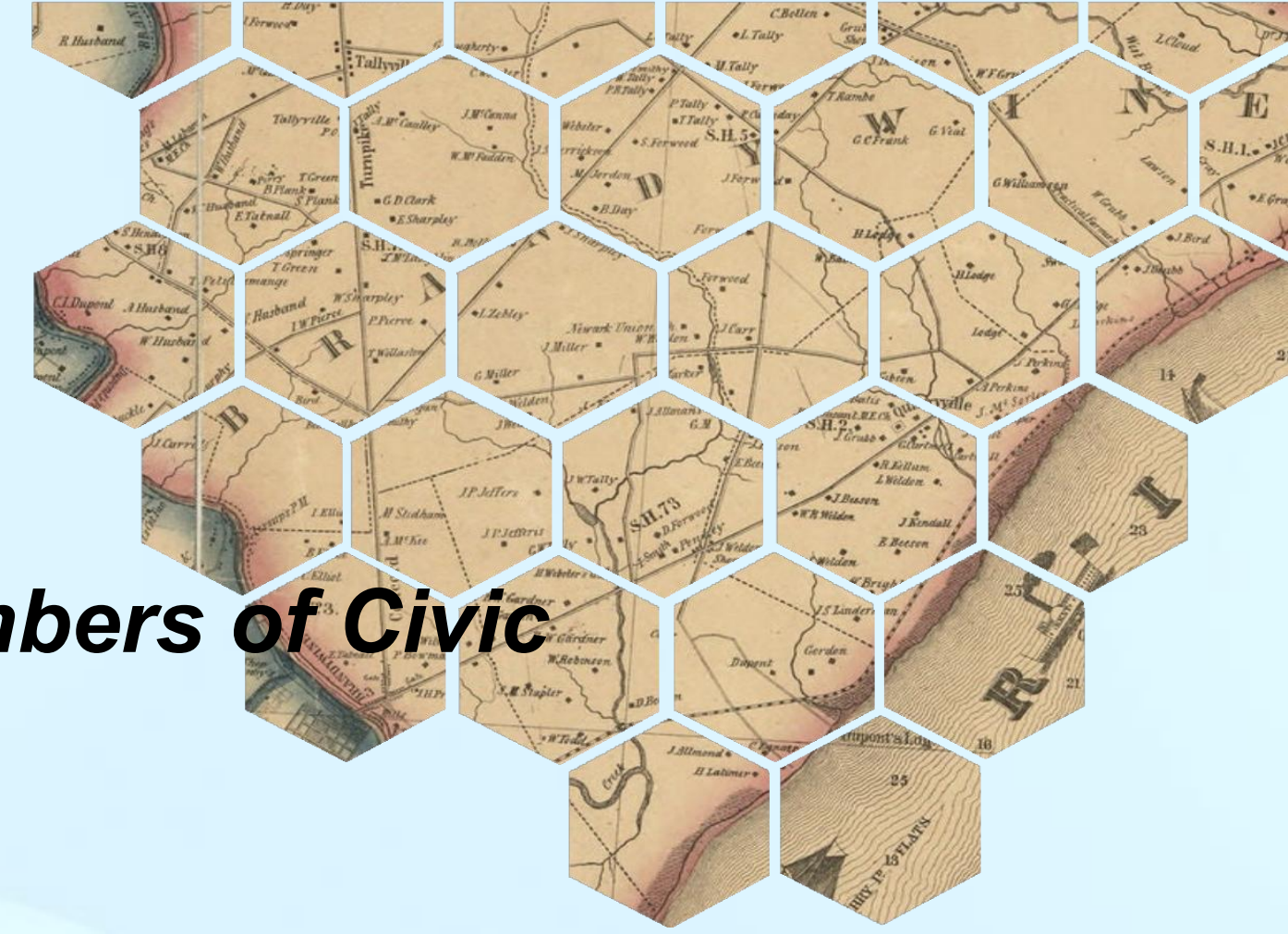


# Home Owners' & Civic Associations

## The Basics

*The first of its series of seminars for assistance to current or future board members of Civic Associations in Brandywine Hundred*

- Topics covered in this presentation:
  - *Background to Homeowner and Civic Associations*
  - *The structures of Civic Associations and Homeowner Associations*
  - *Controlling Documents* (e.g., Bylaws; Rules & Regulations; Deed Restrictions; Declarations/Covenants; Easements)
  - *The Role of an HOA/CA*
  - *The Role of the Board of Directors of an HOA/CA* (i.e., Fiduciary; Managing Business Affairs; Finances; The Politics of HOA/Cas)
  - *Reporting Obligations of HOAs and CAs*
  - *Limiting the Risk*
  - *Enforcement of HOA/CA Restrictions*



# Home Owners' & Civic Associations – The Basics

## Outline

(1 of 3)

- ***Background to Homeowner and Civic Associations***

- CAs, HOAs, Maintenance Associations, Condominiums and Common Interest Ownership Communities
- The Structure of CAs and HOAs
  - Incorporated/Unincorporated Associations
  - Board of Directors/Officers/Members

- ***Controlling Documents***

- Certificate of Incorporation
- Bylaws
- Rules and Regulations
- Deed Restrictions
- Declarations/Covenants
- Easements

# Home Owners' & Civic Associations – The Basics

## Outline

(2 of 3)

- ***The Role of an HOA/CA***
- ***The Role of the Board of Directors of an HOA/CA***
  - The Fiduciary Duty of Directors
    - Duty of Care
    - Duty of Loyalty
- ***Managing the Business and Affairs of the HOA/CA***
  - 8 Del. C. §141
- ***Finances of HOAs and CAs***
  - Record Keeping
- ***The Politics of HOAs and CAs***



# Home Owners' & Civic Associations – The Basics

## Outline

(3 of 3)

- ***Reporting Obligations of HOAs and CAs***
  - Form 990
  - Delaware Annual Corporate Registration Forms
- ***Limiting the Risk***
  - 10 *Del. C.* §8133
  - Limitations in your Controlling Documents
  - Insurance
- ***Enforcement of HOA/CA Restrictions***
  - Jurisdiction/Standing
  - 10 *Del. C.* §348



# § 8133 Limitation from civil liability for certain nonprofit organization volunteers.

(1 of 4)

**(a) For purposes of this section, the following terms shall have the meanings ascribed herein:**

- **(1) "Activity"** is any decision, act or event undertaken by an organization in furtherance of the purpose or purposes for which such organization was organized and exempted from federal income tax, and in the case of a governmental entity described in paragraph (a)(4)b. of this section, in furtherance of the exercise of any governmental function. By way of example, and not limitation, the planning for, sponsorship and conduct of a fundraising event for the benefit of 1 or more organizations is an "activity."



# § 8133 Limitation from civil liability for certain nonprofit organization volunteers.

(2 of 4)

- **(2) "Compensation"** is any remuneration, whether by way of salary, fee or otherwise, for services rendered, exclusive of any gift perquisite in the form of access to services of the organization at no or a reduced cost or reimbursement for costs actually incurred. Compensation shall not include any remuneration which an ex officio trustee receives by way of salary for a position which requires among other duties serving as an ex officio trustee.
- **(3) "Employee"** is any person who receives compensation from an organization or a third party for services rendered in connection with an activity of such organization.



# § 8133 Limitation from civil liability for certain nonprofit organization volunteers.

(3 of 4)

- (4) "Organization" shall include:
  - a) Any not-for-profit organization exempt from federal income tax under § 501(c) of the Internal Revenue Code (26 U.S.C. § 501(c)), as amended, or other act of Congress, and engaged in any activity within the State in furtherance of a purpose for which it was organized; and
  - b) Any governmental entity, including the United States, the State and any board, commission, division, office, task force or other agency of the State or the United States, exempt from federal income tax under § 115 of the Internal Revenue Code (26 U.S.C. § 115), as amended, or other acts of Congress, and engaged in any activity within the State in furtherance of the exercise of any governmental function.

# § 8133 Limitation from civil liability for certain nonprofit organization volunteers.

(4 of 4)

- (5) **"Volunteer"** is any trustee, ex officio trustee, director, officer, agent or worker who is engaged in an activity without compensation.
  - (b) No volunteer of an organization shall be subject to suit directly, derivatively or by way of contribution for any civil damages under the laws of Delaware resulting from any negligent act or omission performed during or in connection with an activity of such organization.
  - (c) Notwithstanding subsection (b) of this section, a plaintiff may sue and recover civil damages from a volunteer based upon a negligent act or omission involving the operation of a motor vehicle during an activity; provided, that the amount recovered from such volunteer shall not exceed the limits of applicable insurance coverage maintained by or on behalf of such volunteer with respect to the negligent operation of a motor vehicle in such circumstances.
  - (d) The immunity granted in subsection (b) of this section shall not extend to any act or omission constituting willful and wanton or grossly negligent conduct.
  - (e) In any suit against an organization for civil damages based upon the negligent act or omission of a volunteer, proof of such act or omission shall be sufficient to establish the liability of the organization therefor under the doctrine of respondeat superior, notwithstanding the immunity granted to the volunteer with respect to such negligent act or omission under subsection (b) of this section.



# § 348. Disputes involving deed covenants or restrictions.

(1 of 3)

- (a) Without limiting the jurisdiction of any court of this State, the Court of Chancery shall, through a Master in Chancery or such other person as may be appointed that Master in Chancery's designee, mediate disputes involving the enforcement of deed covenants or restrictions when:
  - (1) An action involving the enforcement of deed covenants or restrictions has been filed with the Court;
  - (2) At least 1 party is an association or other entity representing the homeowners or lot owners of a subdivision, if such an association or entity exists; and
  - (3) At least 1 party is a homeowner or lot owner in that subdivision. The mediator shall assist the parties in trying to reach a mutually satisfactory resolution of their dispute. Mediation proceedings under this section are confidential and not of public record.

# § 348. Disputes involving deed covenants or restrictions.

(2 of 3)

- (b) By rule, the Court of Chancery may further define those types of deed covenant or restriction cases which must be mediated.
- (c) Upon the filing of an action involving the enforcement of deed covenants or restrictions, the Court shall schedule a mandatory mediation hearing to be held within 60 days of the filing. If the parties fail to resolve the dispute, the Court shall schedule a trial to be held within 120 days of the failed attempt to mediate the dispute, unless for good cause shown the Court in its discretion concludes that a longer period of time is warranted. A Master in Chancery shall preside over the trial.



# § 348. Disputes involving deed covenants or restrictions.

(3 of 3)

- d) The parties to a dispute mediated pursuant to the provisions of this section are not required to be represented by an attorney during a mandatory mediation proceeding.
- (e) The nonprevailing party at a trial held pursuant to the provisions of this section must pay the prevailing party's attorney fees and court costs, unless the court finds that enforcing this subsection would result in an unfair, unreasonable, or harsh outcome.

# Time for Questions from the Audience





# THANK YOU TO ALL WHO CAME TONIGHT!



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