

TeShauna Hamilton

Subject: Burning Tree Master Association Follow-up Questions

From: Heath Hardcastle <[REDACTED]>
Date: September 3, 2025 at 2:29:14 PM CDT
To: TeShauna Hamilton <[REDACTED]>
Cc: Josh Treasurer/Board Member Haugh <[REDACTED]>, Leslee-HOA <[REDACTED]>, EJ Kelly <[REDACTED]>, Mallory Winder <[REDACTED]>
Subject: Re: Burning Tree Master Association Follow-up Questions

In response to your questions:

1. It was our understanding that even though the corporation is going to expire, state law required us to file the certificate of dissolution with the SOS within 90 days of expiration even though technically we aren't dissolving the corporation per the requirements to dissolve per the AOI. Would there be a dissolution process as you describe in your response to our question 1 regarding the handling of funds even though the corporation will just be expiring?

"Part of the dissolution process will be the collection of all assets and the payment of all expenses. What happens to the remainder will be determined by the court. Currently you should continue to operate as normal."

The law treats expiration as an event of dissolution, thus there is no practical difference between an expiration of the charter of a dissolution thereof. Specifically, the law states:

C. If a nonstock corporation has included in its certificate of incorporation a provision limiting the duration of its existence to a specified date in accordance with paragraph 5 of subsection B of [Section 1006](#) of this title, a certificate of dissolution shall be executed, acknowledged, and filed in accordance with [Section 1007](#) of this title within ninety (90) days before such specified date and shall become effective on such specified date. Such certificate of dissolution shall include the information required by [Section 1096](#) of this title. Failure to timely file a certificate of dissolution under this subsection with respect to any nonstock corporation shall not affect the expiration of such corporation's existence on the date specified in its certificate of incorporation under paragraph 5 of subsection B of Section 1006 of this title and shall not eliminate the requirement to file a certificate of dissolution as contemplated by this subsection. If a certificate of good standing is issued by the Secretary of State after the date specified in a nonstock corporation's certificate of incorporation under paragraph 5 of subsection B of Section 1006 of this title, such certificate of good standing shall be of no force or effect.

Okl. Stat. tit 18, § 1097(C). The required certificate is attached hereto. The company will still cease to exist whether or not the certificate is filed. The problem you have with filing the certificate is that you cannot comply with the procedural requirements as you cannot get approval from the members (the individual HOA's) as they are not active and have no one authorized to vote their interests. As a result, you will need to seek judicial assistance and appointment of a trustee or receiver under the relevant statutes. Those statutes provide in part:

When any corporation organized in accordance with the provisions of the Oklahoma General Corporation Act shall be dissolved in any

manner whatever, the district court, on application of any creditor, shareholder or director of the corporation, or any other person who shows good cause therefor, at any time, may either appoint one or more of the directors of the corporation to be trustees, or appoint one or more persons to be receivers, of and for the corporation, to take charge of the corporation's property, and to collect the debts and property due and belonging to the corporation, with power to prosecute and defend, in the name of the corporation, or otherwise, all such suits as may be necessary or proper for the purposes aforesaid, and to appoint an agent or agents under them, and to do all other acts which might be done by the corporation, if in being, that may be necessary for the final settlement of the unfinished business of the corporation. The powers of the trustees or receivers may be continued as long as the district court shall think necessary for the purposes provided for in this section.

Okla. Stat. tit. 18, § 1100. There is an extensive requirement for notices and publication that is required by Okla. Stat. tit. 18, § 1100.1. All handling of funds will be subject to the jurisdiction of the court.

2. When you file, are the board members required to be at the court hearing? Whichever board members will be appointed as trustees or receivers should be prepared to attend any hearing appointing them to take custody of the property.

3. If you file for judicial relief after the expiration date, how can the Board member whose positions will end November 26th still be allowed to access the funds in the bank account to pay attorney fees, court fees, and realtor agreement fees associated with the BTMA corporation? The filing will not be after the expiration date. If it were, the suggested actions would still be possible as Okla. Stat. tit. 18, § 1099 provides:

All corporations, whether they expire by their own limitation or are otherwise dissolved, nevertheless shall be continued, for the term of three (3) years from such expiration or dissolution or for such longer period as the district court shall in its discretion direct, bodies corporate for the purpose of prosecuting and defending suits, whether civil, criminal or administrative, by or against them, and of enabling them gradually to settle and close their business, to dispose of and convey their property, to discharge their liabilities, and to distribute to their shareholders any remaining assets, but not for the purpose of continuing the business for which the corporation was organized. With respect to any action, suit, or proceeding begun by or against the corporation either prior to or within three (3) years after the date of its expiration or dissolution, the action shall not abate by reason of the expiration or dissolution of the corporation. The corporation, solely for the purpose of such action, suit or proceeding, shall be continued as a body corporate beyond the three-year period and until any judgments, orders or decrees therein shall be fully executed, without the necessity for any special direction to that effect by the district court. Sections 1100 through 1100.3 of this title shall apply to any corporation that has expired by its own limitation, and when so applied, all references in those sections to a dissolved corporation or dissolution shall include a corporation that has expired by its own limitation and to such expiration respectively.

4. Since W&M, our accounting firm that we pay monthly, pays all bills associated with the BTMA, will they continue to handle all associated bills until the court approves the sale of the property, or will we have to end their services and have the treasurer start paying the associated bills starting

November 26th, 2025? You may seek court approval to allow them to continue under Okla. Stat. tit. 18, § 1100.

5. Will you need an appraiser report to submit when you file or just for the court hearing? Neither, that would come with the request for approval of any sale of the property.

6. Will you need to have the listing agreement to submit when you file or just for the court hearing? Neither, that will be done through a separate motion after the appointment of trustees or receivers.

7. Would it be illegal to amend the AOI as being suggested to the Board without the 75% approval of the members and if we did, what would the legal repercussions be to the Board members? It would be contrary to the terms of the Articles of the Incorporation and would be subject to invalidation at any time. The BTMA Board members would be subject to potential personal liability for acts taken after the expiration of BTMA's charter and potentially for any legal fees incurred by anyone who brought such an action.

8. Are we required to have another 30-day vote process to send a 2nd wave of ballots out to those who did not vote or can we use the ballot results from the first vote that commenced on August 31st, 2025. What you really need to do is get the homeowners to hold elections and activate their individual HOA's. The homeowners are not shareholders/members of BTMA and their individual consents do not have any legal effect on BTMA.

9. The Board voted to postpone the annual meeting to December which is normally held in September to get through this process of legal steps before the expiration. That way in December, the annual meeting will be for the creation of the voluntary HOA. Is there legally anything that is preventing us from postponing. Looking at Article V of your Bylaws, it appears that the annual meeting was supposed to be on a date certain every year, although that date is left blank. Special meetings can be called at the request of 25% (says 25, but that is likely a typo) of the BTMA members. This leaves you with the problem of the inactive individual member HOA's. After December 1st however, the company will cease to exist so the meeting should be held prior to that. I am also uncertain who will be the shareholders of the voluntary HOA.

Let me know if you have any questions.

Sincerely,

Heath E. Hardcastle
Albright, Rusher & Hardcastle
A Professional Corporation
15 West Sixth Street
Suite 2600
Tulsa, Oklahoma 74119
Tel. (918) 583-5800
Fax. (918) 583-8665
Cell. (918) 640-2990

This message contains information and/or attachments that may be privileged or confidential. The review, dissemination or taking of any action based on the contents of this message by unintended recipients is strictly prohibited. If you have received this communication in error, please notify the sender by reply e-mail and delete the message and any attachments.