

TRCC HOA Educational Meeting

03 May, 2025 / 10:00am / Heartland Christian Church

Attendees

(65) Lot Owners

Special Guest & Facilitator

Cassandra Edwards w/ Wood & Lamping ("Association's" attorney)

Notes

Meeting began at 10:08am. Cassandra Edwards introduced herself stating she is a HOA/Condo specific attorney with more than 10 years experience. She is council to 125 associations in the NKY, SW Ohio, Dayton areas. Collectively with the other attorneys at her firm, they advise 1000+ associations. She is permitted to practice law in FL as well.

Every Lot Owner is a member of the Corporation and the Corporation is the Homeowners Association ("Association"). The Corporation is regulated by statute in Ohio, it is a not-for-profit organization but it is not a 501 3(c).

As a Corporation the "Association" filed paperwork at the time the community was created by the developer. The paperwork was filed with the Secretary of State making it a registered Corporation in the state of Ohio. The "Association" also has governing documents which are the Code of Regulations ("Bylaws") and Declaration of Covenants and Restrictions ("Declaration"). These are both recorded documents and of public record in Clermont County. The "Declaration" lays out the guidelines and descriptions for what can and can not be done to your Lot. The "Bylaws" set forth all the legal procedures for how the community operates including meetings, meeting dates and notices, voting rights, who serves on the board, how many board members, term length, etc. It is important to know that because these are legal documents, as a Lot Owner, you are bound by them. In Ohio the "Declaration" and "Bylaws" serve as a covenant on your property meaning they're also a binding contract between yourself and other Lot Owners and with the "Association". The last governing document, most if not all, "Associations" have is the Rules and Regulations. This can be in the form of a handbook or collection of policies. Rules and Regulations are adopted only by the Board because the Board operates the Corporation. When the Board operates the Corporation, the "Association", acts through the elected Board. The Board signs contracts on behalf of the "Association", they hire the "Association's" attorney, etc. The Board adopts the Rules and Regulations based on the authority of the Ohio Law and the "Declaration" and "Bylaws".

The attorney's legal opinion to the Board is protected by attorney-client privilege because Cassandra can only give advice to the Corporation through the Board. She is unable to give individuals legal advice, she gives the "Association", of which every Lot Owner is a member, legal advice through the Board so they can do what they're supposed to do and act with fiduciary obligation to all of the Lot Owners appropriately. Controlling the "Association" are two statutes, the Ohio Non Profit Corporation Act and the Ohio Planned Community Act.

For the May 3, 2025 meeting Cassaundra advised the Board to waive attorney-client privilege so she can share information transparently with the Lot Owners. While everyone wants to be as transparent as possible for the purpose of meeting minutes, elections, board records, board meetings, all the procedures that bind the "Association" are made to make sure Lot Owners can get involved and know what's going on with a lot of transparency. There are things Lot Owners aren't always allowed to know, for instance Cassaundra can not give out delinquent owners identities to any Lot Owner who asks unless The Board votes to waive statutory privilege that protects that information. Attorney-client privilege operates the same way, the Board decides whether to keep or waive privilege based on Cassaundra's advice.

The governing documents are a mess, they are illegal in various places, hard to enforce and incoherent. In certain aspects, Cassaundra has to default to the Ohio statute which makes for a bit of a mess. Cassaundra was contacted by the Board initially to question the validity of the February 1, 2025 election. She reviewed the "Bylaws" and "Declaration" to determine if the procedures had been properly met. It took a lot more time than it should have for her to figure out all the intricacies of how the elections are held because there is a major problem regarding the board and officer information. For example: In the "Bylaws" Board Members and Officers are discussed and treated as one-in-the-same meaning the way elections have been held in the past is not statutorily proper. All Board Members are Officers, but when an election is held Lot Owners are only supposed to elect people to a board seat, by statute, then after the election they from among themselves will elect who will act as which Officer. It's important to know Board Members are elected generally by the Lot Owners and Officers are elected/appointed from among the Board alone. Example 2: Throughout the "Bylaws" and "Declaration" assessments are called dues and it seems like they're different things. Lot Owners can casually call them dues, but legally they are assessments and that's all they are. The "Bylaws" should always call them assessments. Legally, assessments consist of annual assessments, special assessments when the reserve account is depleted, individual assessments which are levied when an individual personal causes the "Association" to incur charges. Example 3: The Leasing Amendment passed previously stating if you own more than one Lot, you only get one vote. This is not statutorily proper. Statutorily voting power and assessment power are the same, meaning if I own six Lots and pay six assessments I get six votes. If Lot Owners are worried about landlords, particularly Corporations coming in and purchasing multiple Lots and having multiple votes, there is an amendment that can be passed to combat that. Example 4: The "good standing" language in the "Bylaws" is also questionable. The Ohio statute says "good standing" is suspended only for being delinquent on assessments by 30 days, it does not say if you're in violation you lose your voting power. Simply having an outstanding violation does not strip you of your voting power.

Poor wording throughout the governing documents, wrong usage of legal terms, blatant illegalities leave the "Bylaws" and "Declaration" open to multiple interpretations which opens up the potential for litigation. The solution to these problems is to fully amend the "Bylaws" and "Declaration". The "Bylaws" are more important and more urgent, therefore they are the priority at October's annual meeting. Cassaundra will not be surveying Lot Owners on the "Bylaws" because under the law it's a "Fundamentally Legal" document, there's only a couple of ways you can write them, the amendments are an either/or situation. The amended "Bylaws" will be presented, reviewed and voted on by Lot Owners during October's annual meeting. According to the current

"Bylaws" the new amendments can not be proposed until the October annual meeting. $\frac{2}{3}$ majority of Lot Owners will need to vote to pass the amended "Bylaws". Failure to vote can not be deemed a YES vote, so $\frac{2}{3}$ Lot Owners will need to vote affirmatively in favor of the amended "Bylaws". All Lot Owners are highly encouraged to participate in the October meeting and either show in person or participate by proxy. Voting to amend the "Bylaws" is absolutely crucial to the operations going forward.

Lot Owners have an opportunity to amend the "Declaration" to reflect the character of the community. Lot Owners will be surveyed via email over the next several months to discuss and give feedback on amendable covenants. The reason for the surveys is because Cassaundra wants to draft "Declaration" amendments she's confident will pass to save Lot Owners money. Once the survey links are emailed please complete the survey and return. Please encourage your neighbors to complete the surveys, the "Association" needs a $\frac{2}{3}$ majority of Lot Owners to pass amendments. At some point there will probably be a Q&A session about the proposed "Declaration" amendments along with letters and emailed communication because the "Association" wants Lot Owners as involved as possible during this process.

Friendly reminder regarding the social media page on FB, everybody please be aware the Timber Ridge Neighborhood FB page or any other social media account for this community is not an official Corporation made or Corporation administered page. If you're seeing things on there you don't like, the Board has no control over it. The Board didn't create the page, please understand it's completely unofficial. The actions of the Corporation happen through meeting minutes, board meetings and records, not through social media. Even if a Board Member (past, present, or future) were to comment on a social media page they are not acting in the capacity of a Board Member. They're acting as only a Lot Owner.

Pertaining to violations and Design Reviews; as a Corporation the Board owes duties prescribed by law and by the governing documents. The "Declaration", "Bylaws", and the Ohio statute empower the Board to give effect to enforce the governing documents. Violations coming from the Board are not personal, they are doing what the law requires them to do, what the attorney has advised them to do because they have a fiduciary obligation to the "Association". The Board does not have the power to waive the covenants laid out in the "Declaration". The Design Review process is very important, the Design Review application does need to be filled out and submitted to the Board BEFORE you begin your project. If you complete your project and fail to submit the Design Review application before you start the project, that is technically a violation that can be separately enforced. Fines and legal fees can be levied to the Lot Owner for failure to submit the Design Review before the project begins. It is very important the Board have records of Design Review applications because the day might come where a covenant is being litigated and the attorney needs to know all the Design Review applications that were approved or denied for the previous 10-15 years. It's more of a documentation requirement. Also Lot Owners can be given exceptions based on federal disability law, things can look like violations that aren't. A Design Review document will be needed to prove the Lot Owner was given federal protection. The Design Review process is crucial and beneficial to both the Lot Owner and the "Association", please get prior written approval before you begin your project.

Cassandra answered a few questions from the audience. Meeting was adjourned at 11:21am.

Action Items

The Board would like the opportunity to survey all Lot Owners for feedback on passing amendments to the "Declaration". Please email the secretary at secretary4trhoa@gmail.com so she can capture your email address and will know where to send your future surveys. *By providing your email address, you agree to receive future surveys and emailed communications regarding new amendments for the "Declaration".*

Respectfully Submitted by:

Jennifer Sizemore, Secretary TRCCHOA