

On Jul 30, 2025, at 11:19 AM, Garrett Chrostek <Chrostek@bljlawyers.com> wrote:

Tom,

Following up our meeting, this e-mail discusses the CCR amendment procedure for the Fall Rivers HOA.

As an initial matter, the subdivision likely constitutes a “planned community” for purposes of the Oregon Planned Community Act because there’s more than 13 lots and you are assessing more than \$100 per lot. The governing documents don’t come right out and say it, but there is at least one reference to ORS Chapter 94 (where the Oregon Planned Community Act is housed) and you have a non-profit association running things, which is a hallmark of a planned community. That means that a number of statutory provisions contained within the Act may apply.

While the Planned Community Act specifies that amendments to CCRs requires 75% or such higher amount in the CCRs, that provision doesn’t apply to a pre-2002 planned community that was not specifically established pursuant to the prior version of the planned community act (which was initially adopted in the 1980s), where the CCRs specify a different number. It’s pretty murky for your HOA because the plats were recorded in the 1970s and the Secretary of State’s records indicate that your association filed for a renewal in 1985 (suggesting the HOA was formed before 1985 – I didn’t see any articles of incorporation in your files so not sure how much before 1985), but odds are that statutory provisions do not apply and thus the 51% of lots subject to the CCRs would remain the applicable requirement for a CCR amendment (this was the threshold cited for the prior chicken amendment) and as part of the 2006 amendments.

The Act does specify that: “ (2)(a) Unless otherwise provided in the declaration, an amendment to the declaration may be proposed by a majority of the board of directors or by at least 30 percent of the owners in the planned community.” I don’t see any provision in the documents as to how amendments are proposed, so that statute would apply. Mechanically, the CCRs just say that 51% provide written consent to the amendment, which could be as the result of a ballot vote (and there’s some procedural

requirements if you go this route) or signature sheet to the amendment. If adopted, you'd have to record an amendment, which can just be verified by HOA board members (there's some special language that has to be included) to avoid having to get notarized signatures from the 51%.

Hopefully that addresses your questions, but let me know if you have any further needs.

Thanks,

Garrett Chrostek *Attorney & Shareholder*

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