

Villas Special HOA Meeting Minutes
January 26, 2024
3:30 pm

Present:

Board Members: Mike Smith, Deanie Gustin, Jeanne Edmondson, Burke Langrall, Gloria Straka, Georgia Fiering

Residents: Debi Churchwell, Joyce DeFehr, Savannah Hill, Pat Blair, Ginger and Tim Schreiber, Robin Allen

Guest: Matthew Winton – HOA Attorney

Purpose: To discuss proposed amendments regarding short term leases/AirB&B and monetary penalties for failure to comply with Covenants and By- Laws (C&BLs).

Meeting was called to order by Mike Smith. The minutes of Special Board Meeting held on January 6, 2024 were shared with the residents. Motion to approve was made by Georgia and seconded by Deanie. Motion approved.

Mike Smith then introduced visiting HOA attorney, Matthew Winton and turned the meeting over to him to discuss amendment regarding short term leases/AirB&B and monetary penalties for failure to comply with the C&BLs.

Per Mr. Winton, the process for an amendment is the same as we have gone through before when we did our previous amendment in 2011. Requires a vote of the membership to change one letter or all the letters of the C&BLs. Must be a recorded document. Since the pandemic of 2020 the world of real estate and AirB&Bs/short-term leases has changed.

The amendment procedure requires written consent. It needs to be substantial and the best way to do that is to:

- 1) Have Notice Letter sent to all residents stating date of vote
- 2) Provide a Ballot stating the proposed amendments with a box to check for Yes or No and
- 3) Have the result of the ballots recorded with the Covenant amendment.

This takes the argument out for those who challenge. State statute calls for requisite votes of 60%. Mr. Winton emphasized that in order to get a total vote, board members may have to physically go door to door.

The most common leasing restriction for HOAs is the owner occupancy requirement. Every time property transfers ownership, the home must be physically occupied by the new owner for the first year of ownership. Occupant owns it but a person with second degree consanguinity can occupy it: For

example: spouse, children, parents, grandparents, grandchildren, siblings. (Second degree consanguinity is persons who have two common ancestors in the previous generation).

To limit the number of rentals: We encourage people to buy, who are going to live there for a year. Very few people are going to live in it for a year and then turn around and rent. Usually out of necessity only, then they just sell the house. People just don't do it.

For current residents: If you pass away, your spouse can rent the house because they have lived there for over a year. Likewise, should both owners, or the surviving owner, need to move (assisted living, etc.) the house can still be rented.

Rental has to be at least a year; no short term rentals. Owner has to provide the Board with a copy of the lease. Board does not get involved in the approval process of lease. If you rent, your lease agreement must specify that compliance with the rules of the Covenant & By-Laws are mandatory. That way if you are questioned, your covenant already has it covered.

Age-old process of going to court asking judge to make them (neighbors) do something or whatever: Mandatory Injunction; Prohibitive Injunction, to stop them from doing something. Currently, what we like to do is layer on remedies; can convert theoretical, sounds like messy injunction; move more toward money; specific monetary penalties.

Penalties must be according to Schedule of Penalties, established by HOA and stated in amendments, for failure to comply with the C&BLs. This provides a fair and consistent way to enforce penalties for non-compliance. Must be proposed by the Board and adopted by members. If an HOA doesn't already have this, then one should be established and adopted. Make sure these are stated in the C&BLs. Failure to comply can lead to monetary assessments, a lien on property, or in extreme cases, foreclosure on the home.

We must have the established Schedule of Penalties and show enforcement of same, in order to request an injunction. Primary and secondary, umbrella association: Villas is a stand alone association, not a sub association under Auburn Meadows. Our Covenant rules are not Auburn Meadows. They have their own.

Mike asked Matthew Winton to write this up so we can have people vote on it. On 1-2 sheets of paper, just one amendment. Amend existing Paragraph 7.6.1 .(Amendment 4 – Addition to Article7)

Another amendment for monetary penalty: Because already authorized, inconvenient to wrap together. File a record; they cannot plead ignorant of the law. Mr. Winton can provide sample of what that would look like.

Will draft Notice Letter, Ballot, Amendment, Memo, what process looks like, and then the voting will be conducted. Will go door to door, then after date of voting meeting, would collect ballots, tally, and then finalize. Cannot do by Feb 15. Will schedule over 30 days once we have all drafted. Mr. Winton will get a document drafted; send to Board. Who is doing mail out; Mr. Winton's office or us?

Motion was made by Deanie for Mr. Winton to go ahead and do amendments. Motion was seconded by Gloria. Motion passed.

Amendment is all in one; voting on leasing restriction and whether to adopt the schedule of penalties for non-compliance of C&BLs.

In closing, Mr. Winton stated that the Penalties For Failure To Comply With Villas C&BLs must be very specific in regard to late fees, fines, and time parameters. The Board will write a draft and send to Mr. Winton for guidance and approval.

Meeting was Adjourned at 4:30 pm

Debi Churchwell

Recorder