



CONDOMINIUM TERMINATION - THE PRESERVE AT MAYFIELD RANCH CITY OF ROUND ROCK INFORMATION

On April 25, 2019, I contacted Mr. Lee Heckman, Principal Planner, at the City of Round Rock concerning the possibility of The Preserve at Mayfield Ranch dissolving its current structure as a hybrid condominium regime. Mr. Heckman agreed to speak with his colleagues in various city departments to ascertain the implications of such action.

On May 8, 2019, Mr. Heckman returned my phone call. If The Preserve chose to disband the hybrid condominium regime, we could certainly do so, and the City of Round Rock would have no influence over our decision.

However, Mr. Heckman provided the following considerations:

- The City of Round Rock has no interest in taking over the maintenance of the roadways and the utilities in The Preserve.
 - Roadways
 - Roadways in The Preserve do not meet City standards for public streets.
 - The roadways in The Preserve are not wide enough to comply with public street standards. The Preserve streets satisfy the width requirements for a fire lane and/or a private driveway.
 - The pavement base and sub base of The Preserve roadways likely are not up to standard requirements for a public street.
 - The material standards for public streets requires a depth of material to support a certain weight of traffic, and The Preserve streets very likely do not comply with this specification.
 - Utilities
 - The wastewater line to The Preserve is public and considered an adequate line up to a point in the community. Within The Preserve, the wastewater line is considered private, and so privately maintained.
 - The private wastewater line may or may not be up to current City standards.
 - Because the City did inspect the wastewater line at the time that it was installed but does not know if it has been maintained according to City standards, the City would not accept the responsibility for the wastewater line.
- The land in The Preserve is a Planned Unit Development (PUD) consisting of 1 single lot encompassing the entire The Preserve community.
 - If the condominium regime was dissolved in an effort to convert to a single-family subdivision, there is City regulation that requires “every single-family lot must have frontage on a publicly maintained street or right of way.”
 - The Preserve’s roadways are not public streets and do not meet the standards for public streets.
 - If The Preserve decided to bring the streets up to current City standards, all streets must a minimum of 50 feet width. Within the 50-foot width, the driving surface must be 24 – 30 feet and the remainder consists of sidewalks, curbing, and easements or area(s) for water, wastewater, and dry utilities (such as cable or electric).
 - Retrofitting a roadway - even if the space existed - is extremely expensive, and the cost would be the responsibility of The Preserve.

- If converted to single family lots, new legal lot lines would need to be established for each home.
 - The lot sizes will be too small to meet City required lot size standards.
 - Because The Preserve is a PUD, the City Council could address the small lot size with an amendment to that PUD to accept the fact that the lots do not meet the minimum building set back requirement.
 - There is no precedent for this type of approval as it has never been granted before. In addition, a PUD is not a mechanism to get around or reduce standards; therefore, a PUD to allow for reduced size (i.e., substandard) lots could not be supported by staff.
 - It is staff opinion that the current City Council is not likely to support such an amendment.
- If The Preserve is changed from hybrid condominium regime as established to something else and the PUD is not amended, it will no longer be in compliance with PUD regulations. Technically, this non-compliance is a zoning violation.
 - The City would not actively pursue this zoning violation.
 - When a homeowner went to sell his home in The Preserve, one of the first questions asked by the title company is: “Is this property in compliance with the zoning codes?”
 - The City would be obliged to answer that the property is not within zoning code compliance.
 - Result would potentially be that a third-party lender would not issue the mortgage because of the zoning code violation. Property was designated a condominium regime and now it is not.

Respectfully submitted,

Judy Carter, Treasurer
The Preserve at Mayfield Ranch HOA

Note: This document has been reviewed for content accuracy by Lee Heckman, City of Round Rock.

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June 28, 2019

Via E-Mail

Re: The Preserve at Mayfield Ranch Homeowners Association, Inc.
Potential Termination of Condominium Regime

Dear Judy,

On behalf of the Board, you asked me what would be necessary in order to terminate the condominium regime for The Preserve at Mayfield Ranch. Termination of the condominium regime would require the approval of at least 80% of the total votes in the Association, as well as other approvals. Below is more specific information.

It is well-settled law that the Declaration of Condominium Regime operates as a contractual agreement between and among all of the Unit Owners and the Association. In order to convert from condominium to single-family homes, the owners would first have to legally terminate the condominium structure.

Termination of the condominium regime is governed by Section 82.068 of the Texas Uniform Condominium Act. (Dec. 17.2 & 18.3). State law provides that a condominium declaration may not allow for termination to occur given less than 80% votes of the Association. (Tex. Prop. C. 82.068(a)). The Declaration provides additional hurdles that must be crossed in order to terminate the condominium regime. Specifically, you would need to obtain the approval of the Declarant during the Development Period, and the approval of at least 67% of all Eligible Mortgagees. (Dec. 18.3) The Development Period continues through January 17, 2028 (Dec. 1.14).

So, in order to terminate the condominium regime, you must obtain the following:

- (1) The affirmative vote of at least 80% of the unit owners (125 votes);
- (2) The approval of the Declarant, Allen Group II, LLC; and
- (3) The approval of all Eligible Mortgagees.

I understand that one homeowner has suggested that Texas Property Code 81.110 supports a proposition that the condominium regime may be terminated upon a 67% vote of the Association. This is not an accurate statement of the laws effecting The Preserve. The section cited by the homeowner (81.110) is a provision contained in Chapter 81 of the Property Code. Chapter 81 applies only to condominium regimes created before January 1, 1994. (Prop. C. 81.0011) The Preserve was formed almost twenty years later, and is not subject to Chapter 81.

Beyond the termination of the condominium regime and related litigation, there are practical concerns related to restructuring as a single-family home community. Under the condominium regime, streets, driveways, and parking areas are currently owned by all of the homeowners within The Preserve and are maintained by the Association. As a single example of the many challenges that would arise if the regime were terminated, it is not clear how the streets, driveways and

parking areas would be maintained following termination. There is no guarantee that Williamson County will agree to accept ownership of or maintain these structures following termination—in fact it would surprise me if the County were willing to take on that obligation. If Williamson County does not accept responsibility for the streets, driveways and parking areas, the community would need to come up with a plan to fund all maintenance and repair needs, and codify that agreement into a deed restriction on the properties. Again, this is but one example of the challenges that The Preserve community would face related to termination.

I hope this information is helpful. Please let me know if I can be of additional assistance.

Sincerely,

/s/ Chloe M. Love