

**Committee on Amendments to CT Condominium Declaration and Bylaws**

**Tuesday, June 21, 2022 6:00p.m. via Zoom**

**AGENDA:**

1. **Call the meeting order:** Mickey Smotherman at 6:00 p.m.

2. **Attendance:**

Present: Mickey Smotherman, Charlotte Cleveland, Steven Eagle, Jon Schmidt, Pat Simmons (Secretary)

Next meeting: July 18, 2022, Monday at 6 p.m.

3. **Discussion: Committee continued discussions**

**A. Mickey to report on the Board's discussions of CT Condo Insurance coverage**

- i. Mickey told us what the Board discussed and with our insurance agent. The Board is considering obtaining additional coverage due to higher construction costs in the Gallatin Valley. Our Committee agreed to leave the insurance language in the Declarations as is. The Board will communicate with owners about insurance coverage.

**B. Continue and finalize discussion of Levy & Collection of Assessments (Declaration, Article V), in light of Alanah's answers – this discussion was handled by email in between meetings.**

- i. The Delinquency Policy adopted by the Board in 2015 does not require recording a Notice of Lien – it states in #7 that if the delinquent amounts owed are not paid within 30 days of the date of a demand letter, “the HOA may file a Notice of Lien...”. Therefore, this Policy is not in conflict with Alanah's suggested amendments to Article V of the Declaration.
- ii. Some of the charges and fees in the Delinquency Policy do not align with Alanah's proposed language; in that case, the language of the Declaration will supersede the conflicting language in the Policy. However, it would be advisable to modify the language in the Policy to match what is in the Declaration – but that doesn't need to be done until the amendments take effect, so we've got plenty of time to do that.

**C. More discussion on the Limited Common Elements definitions regarding the burden of proof for a defect in the adjacent General Common Elements.**

Charlotte provided the details of an actual example of an original installed window in a unit which was defective when installed, and was replaced by the Association, because it was out of warranty. Steven said that windows are not general common elements; and we need to consider fairness. Pat said that there are too many different situations to address in writing so we should give the Board the responsibility to investigate and obtain experts if needed. We decided to leave the wording we had previously added that was emailed to us, trusting that the Board/Association would consistently and fairly cover any situations such as that cited by Charlotte, if and when they arise, rather than try to add specific language describing what cases would be treated as general common elements and which would not, This section is complete as follows: Article I Definitions, 6 b addition

*“If a Unit Owner requests that the Board invoke the power to consider a limited common element to be a general common element under this clause, the Unit Owner must present proof satisfactory to the Board that the damage was caused by a defect in a general common element*

*(such as an expert opinion by a qualified contractor or engineer). If the Board agrees, the Board may treat the expense of obtaining the proof as a cost of repair or replacement of the damaged limited common element.”*

**D. Discussion of Lien language per Alanah’s advice**

- i. We removed Article VIII, Section E “Liens & Foreclosures” because Article V, Section H “Enforcement For Failure to Pay Assessments” adequately covers this topic.

**E. Discuss whether to alter the provision that new owners by inheritance are NOT grandfathered per Steven’s suggested compromise in Article IV**

- i. We will leave our current wording, provide some information to owners when we are discussing the amendments, and tell owners that they will need to review the language with their own lawyers. Article IV, Section E Use Restrictions, g. *“Grandfathering: This subsection augments Montana Code Annotated Sec. 70-17-901, which protects Owners, but not successors in interest, from homeowner association requirements which impose more onerous restrictions on uses, including rentals, than existed at the time the Owner purchased. Units owned at the time of the effective date of amendments pertaining to leasing in subsections E.1 and E.2 of this Article, and/or any other sections of the Declaration or Bylaws, shall not be subject to such amendments until the property is sold or otherwise changes ownership. Thereafter, Units may be leased only in accordance with the leasing provisions included in the Declaration and Bylaws (as amended) and any applicable Rules and Regulations. New Owner(s) of formerly leased Units will not receive priority over other Owners on the waiting list.”*

**F. Pat reviewed some additional items in the Declarations that she questioned**

- i. Article VII B. 2 Alterations – change the word “deck” to “patio”
- ii. Article VIII C. 1. Exterior of buildings – removed “doors, windows” as they are limited common elements

**G. Complete discussion of the full Bylaws document from all members of the committee**

- i. Article III – Add “Rules & Regulations adopted pursuant to the Bylaws,” after “the Declaration” in the first sentence
- ii. Article IV, Section B – replace “Association” in the second sentence and add “Board” in its place
- iii. Article IV, Section B 1. – change the first sentence to “shall be sent by U.S. Mail or email” and remove “,s Secretary” so the Manager could also do it.
- iv. Article VI – change the wording from “elected among from” to “elected from among” the Unit Owners.
- v. Article VI A. – remove “the term of two (2) Directors shall be for two (2) years” to leave the number of Directors at 5 instead of 7. Add “the office” is vacated sooner.
- vi. Article VII D. – remove duplicate “to be collected”
- vii. Article VIII K. – remove duplicate “prepare”. Discussion on Special Meeting for budget Q&A and decided to hold this during the Annual meeting. “...shall be transmitted to each Unit Owner at least 30 days prior to the Annual Meeting of the Association.” Remove the following sentence. To the last sentence add after

- ...December 15 of the year “prior to the calendar year”
- viii. Article VIII N. – replace “pursuant” with “pursue”. Remove “aggregate interest” in the last sentence as unnecessary and undefined term, removed throughout both Declarations and Bylaws.
  - ix. Article VIII S. – replace “first class” with “professional”
  - x. Article VIII T. – add “Gallatin” to County
  - xi. Article VIII V.– remove “the power bill” as common utilities are already included
  - xii. Article XI A. – replace “appointed” with “retained”; remove “Chairman” from the last sentence.
  - xiii. Article XI B. – remove “Other budget items may be provided for in the discretion of the Manager.”
  - xiv. Article XII – remove “over” seventy-five percent to clarify the maximum percentage

**H. Other topics in the Declaration or Bylaws that our committee members want to amend are due to the full committee before July 5.**

**I. Charlotte’s newly typed Declarations and Bylaws – Finalization by Committee and sending to Alanah for her review and timeframe**

- i. Charlotte will add tonight’s changes to her documents and finalize by July 5. We will not meet that night.
- ii. Mickey will notify Alanah that she should expect to receive our final document just after July 5 and we would like her to do a complete review of both documents and give us her suggestions by July 15.

**4. Next Meeting and Next Big Topic:**

- a. Meeting: Tuesday, July 18, 6:00pm MDT
- b. Draft Agenda Topics:
  - i. Discuss input received from Alanah for both Declarations and Bylaws
  - ii. Discuss distribution of the documents to Unit Owners and getting their input

**5. Owner-to-Committee Communications:**

Owners may contact the Amendments Committee with questions or concerns via email at [contact.ct.amend@gmail.com](mailto:contact.ct.amend@gmail.com)

**6. Adjournment:** Mickey adjourned the meeting at 8:10 p.m.