

Plantations Condo Association

Special meeting of the Condo Council board to pass Amendment 8 of the Plantation Condominium Code of Regulations Friday, September 6, 4 p.m. Seascope offices, Lewes, DE

Attending: President Jim Anderson; Vice President Bob Bloomquist; Secretary Susan Towers; Treasurer Sherry Minear; member Donna Stone; (non-voting) newly nominated members Jeanmarie Dolan and Gerri Clapp; Seascope representative Chris Nichols; and via telephone, attorney David Hutt.

Jim Anderson calls the meeting to order at 4 p.m. He explains the meeting is to pass Amendment 8 of The Plantation Condominium Code of Regulations, which removes the phrase, *“The Council shall be comprised of Unit Owners. In the case of joint ownership of a Unit in the Plantation Condominium, only one of the Unit Owners may serve on the Council at any one time”* from 4.1 Names and Qualifications of Members in Amendment 7 ELECTION OF COUNCIL MEMBERS; TERMS AND LIABILITY.

He explains the reason the phrase needs to be removed is because it has created a conflict with what is stated in The Plantation Condominium Declaration of Covenants, the governing document for the Plantation Condominium and its Council, which is, *“shall be either residents of the State of Delaware or Unit Owners as defined herein, but need not be both.”*

Amendment 7 was passed in August 2018 to increase the number of Council board members from 3-5 to 5-7. The wording in Amendment 7 “unit owners” created an *unintended conflict* between the Declaration of Covenants and the Code of Regulations, and was done inadvertently.

Susan Towers asks why can't Amendment 7 be left as is, since the Declaration is the governing document, and instead work on changing the Declaration so that council board members must be owners, not just Delaware residents. She says it was logical for the attorney to add the words ‘unit owners’ to Amendment 7 as a way to define the board members of the Condo Council, especially since the description “unit owners” is used throughout the Code of Regulations. Susan is

concerned by removing the wording requiring board members to be unit owners, people who do not own property in the Plantations, and who do not pay fees, are encouraged to become members of the governing body.

Chris Nichols explains the conflict in the documents is problematic because an election is about to occur and one of the nominees is not a unit owner (rather, a spouse of a unit owner). If Amendment 8 is not passed, and someone recognizes the inconsistency, there could be a problem.

Following a question by Sherry Minear to clarify, Chris says the Declaration of Covenants has to be changed by a 2/3rds vote of unit owners. Then, an Amendment 9 will have to correct Amendment 8.

Bob Bloomquist asks why is there a rush to pass Amendment 8 if the Declaration overrides the Code of Regulations.

Jim Anderson says it is necessary to correct the inconsistency to make the upcoming election legal.

Sherry Minear asks why the election is illegal and what is the risk.

Dave Hutt says that both documents (Declaration of Covenants and the Code of Regulations) provide different levels of authority. The Declaration has the most authority.

Donna Stone says there is no reason not to go forward with the election.

Dave Hutt agrees, but says that due to the problem of conflicting wording between the two documents, someone could protest and the result would be a lawsuit.

Sherry Minear, who has been on the board for 16 years, says it has not been unusual for owners of homes in That Plantations to serve on the Condo Council board. She says historically not been enough condo owners have offered or agreed to serve on the board.

Jim Anderson says he likes the idea of Delaware residents to serve on the Condo Council board as it gives a wider selection of potential board owners from which to choose. He repeats that Amendment 8 should be passed to get rid of the conflict, and then 'we can go about it the right way.' This would take away the potential of legal action. He also says he would like to extend board membership to spouses and owners of house in the Plantations.

Sherry Minear says since The Plantation Condominium is a nonprofit, extending opportunities on the board could be beneficial.

Donna Stone says she has spent several hours reading through all the documents and believes the developers put in “resident of Delaware” because initially there were no owners. The language allowing for anyone living in Delaware to be on the governing board was thus “inadvertently ignored.”

Jeanmarie Dolan asks if board members of The Plantation Condominium Council must be owners under the Delaware Uniform Common Ownership Interest Act.

Hutt, answering her question, says The Plantations was built before the Act was established and so is not governed by it.

Jim Anderson says the conflict needs to be resolved between the two documents, and he would like owners of the homes in Plantations, as well as spouses of unit owners, to serve on the Condo Council board, but has “qualms” about residents of the State of Delaware.

Sherry Minear says people who govern (Condo Council board members) should have a vested interest and be financially involved, which includes owners of homes.

Agreeing, Jim Anderson says Dave Labreque, President of the Plantations Owners Association and a home owner in the Plantations, has done ‘a lot’ for the community. He asked for a motion for a vote in favor of Amendment 8, and then to work to change the Declaration so it reflects what people want. He says everyone has concerns regarding the ability for any resident in Delaware to be able to serve on the governing body of The Plantation Condominium.

Donna seconds his motion, with the following condition: that a day and time must be set up for a meeting to begin reviewing and updating the Declaration of Covenants and the Code of Regulations.

Sherry Minear adds she remembers last year the board decided to initiate a full review of the documents, but she does not know what the status of the effort is.

The date was set at Monday, September 23, 3 p.m. in the Seascope offices in Lewes.

The motion: To approve Amendment 8 provided a meeting to work on updating the Declaration of Covenants and the Code of Regulations is set.

The motion carried 4-1. For: Anderson, Minear, Bloomquist, Stone. Against: Towers.

Meeting adjourned 4:40 p.m.

Respectfully submitted:

Susan Towers, Secretary, Sept. 19, 2019