

CLEARVIEW HEIGHTS CONDOMINIUM ASSOCIATION

Meeting Minutes November 8, 2017

Present: Luann Canedy, Laurine Ferrarini, Richard Lacasse, Norman Muller, and 35 additional unit owners. Also present was Attorney William Thompson from the law firm of Marcus, Errico, Emmer and Brooks.

Mr. Muller called the meeting to order at 6:35 p.m.

The sole purpose of the meeting was to discuss the no smoking amendment to the Master Deed that includes the prohibition against growing, distributing or selling of marijuana and answer questions owners had about this issue.

Mr. Muller explained that Trustees heard a presentation in the spring about no smoking that included the prohibition against growing, distributing or selling of marijuana and ultimately making the property a no smoking/no marijuana property. At our Annual Meeting held in July, an owner asked about changing the bylaws. The Trustees said they had attended a meeting on the smoking/marijuana issue, which would require a bylaw change. There was some interest from the owners present at the Annual Meeting that we pursue the possibility of amending our documents. As this issue was the result of a question from an owner, it was not on the meeting agenda. Because of this interest, Trustees contacted the above-mentioned law firm to inquire how to go about making a change to our documents and thus, the process began. Our objective was to gather as much information as possible and present it to owners so they could then make an informed voting decision. We discovered during our investigation that marijuana smoking needed to be linked to all smoking and needed to include the prohibition against growing, distributing or selling of marijuana. In late October, a packet was sent out to owners containing the proposed revision of the Master Deed, the document we discovered needed to be amended, a cover letter (drafted by Attorney Thompson) that included the meeting announcement, a ballot, and a mortgage information sheet. After the letters were sent, Trustees received several email questions and comments.

After his introduction, Attorney Thompson started to explain the process and was interrupted with a question about the cost of his services which several people indicated they had a right to know because it was their money. The attorney did not give a direct answer but indicated it would probably be no more than a local law firm. Attorney Thompson said there are many reasons why a condo association might want to ban smoking and the process for this amendment was pretty straightforward. He also said current owners would be grandfathered regarding cigarette smoking.

He pointed out that for people who used marijuana for medical purposes, there were other forms available in place of smoking it. If a disabled person requested permission to smoke marijuana, this would be handled on a case-by-case basis. The question was brought up about a person's right to privacy about medical information and again, this would need to be handled on a case-by-case basis.

The question was posed about how no smoking could be enforced inside individual units. If it came to light that an owner was smoking inside the unit, then that would be a violation and the Association could enforce the rule.

At this point, unit owner John Ferraro took the floor and made a statement. Several owners had asked Mr. Ferraro to be their spokesperson. The Board never sends letters about good things. Letters tended to be negative. We need to develop a sense of community at Clearview Heights. This amendment violates owner rights. If an owner decides to sell their condo, a no smoking policy could hurt their ability to sell. According to state law, people can smoke marijuana and can grow up to six plants. Marijuana is still not legal according to Federal law and Federal law supersedes state law.

There were several questions about the mechanics of the vote. In order for the amendment to pass, it would require approval by a two-thirds majority of all owners. (Since there are 86 units, a two-thirds majority would be 58 votes.) No deadline for voting was mentioned in the letter. Our documents do not talk about the length of time for the vote. People were concerned about ascertaining the outcome of a vote and would prefer not to leave this to the Trustees. A list of each owner and how they voted could be published but that would not be a good idea because it could cause difficulty between neighbors who might be on different sides of the issue. The ballots could be counted by a small group of owners who would represent the rest of the group.

The issue of how this amendment would affect resale value was brought up. People are afraid this amendment will make their units less desirable and more difficult to sell. The attorney pointed out that a no smoking amendment might make the property more desirable by people who cannot be around smoking. He suggested we question local realtors about this point.

If current owners were grandfathered, how will this solve the problem in the short run? It would not but it would insure that, at some point in the future, the property would be smoke free.

If the smoking problem only involves a few owners, can the Association force smokers to install air filter systems in their units? This would raise the question of who would pay for these devices and how would this be enforced. Requiring this equipment would also require an amendment to the Master Deed.

One owner made a motion that we drop this issue immediately. There was a second to the motion but, as this was an informational meeting only, a motion was not warranted at this time.

Summary:

The majority of owners present at this meeting indicated they were not in favor of this amendment and urged the Board to abandon the entire process. The other option would be to carry out the vote and let the results speak for themselves.

This issue raised sufficient interest which resulted in 35 owners attending the meeting in addition to the four Trustees. This is the highest turnout at any meeting in recent years. The Board moved forward with this issue because there seemed to be some interest in it when it came up at the Annual Meeting. A good number of owners attended the meeting to express that they were against this.

A letter clarifying a timeline/deadline will be sent out shortly giving an ending date for the paperwork to be returned. In addition, any owner who has already submitted their paperwork but as a result of this meeting would like to change their vote can request this in writing to the Trustees. We will return their original vote in pieces and give them new paperwork to vote again. The Trustees are not trying to force anything upon the owners.

The Board would like to thank John Ferraro for acting as spokesperson for the owners and all the other people who participated and helped move this discussion along.

There being no further business, the meeting adjourned at 7:45 p.m.

Respectfully submitted,



Norman Muller
Vice President