

ORCHARD HILLS-MAPLEWOOD HOMEOWNERS ASSOCIATION

FEBRUARY 21, 2024 MEETING MINUTES

Meeting began at 7:30 pm by Zoom

Present: Wendy Carman, John Gaffield, Brad Pritts, Joe Trulik, Connor Concannon, Jack Cederquist, Jane Klingsten, Amy Seetoo, and Pete Mooney. Emily Eisbruch gave her proxy to Wendy as did Steve Stancroff.

Introduction: Wendy made brief remarks indicating that the agenda involved the neighborhood covenants. Joe indicated that he had thought the meeting would include TC1. We agreed that we would focus on the covenants, discussing Brad's proposal first and considering whether other proposals would be considered amendments. There were 3 proposals received via email before the meeting, which are as follows:

Brad's Proposal – Part A -- That we record notices under the Marketable Record Title Act ("MRTA") as to the five separate subdivision restrictions and that the Board create a committee to review the restrictions and determine which we would want to enforce as a board. He indicated that he was concerned that without filing notices a court may determine that the restrictions had expired and without the restrictions someone could try to construct a building incompatible with our neighborhood. He also acknowledged that some neighbors may want to have chickens, and that a committee could investigate modifications. Part B – that we form a committee to review the covenants and determine which ones to enforce as a board.

Pete's Proposal – That we record notices as to the four original subdivisions, but that we exclude Windemere based on Elle Soros' letter indicating that an association's ability to enforce Windemere's restrictions was dependent on a recorded assignment from the developer and association, which we have no record of existing. He also proposed that the notices be limited to 5 years with the option to renew. The basis for the 5-year limitation proposal was that our neighbors have never given us significant, broad-based feedback on these restrictions, and an indefinite notice would give us no incentive to seek that feedback.

Jane's Proposal – To record notices as to the Hoffman Declaration on behalf of the Georgetown and Ardenne owners on the basis that those owners deserve representation as well. She also proposed a board policy that violations of the restrictions would be subject to fines/other enforcement by the Association if the restrictions at issue were constitutional, the violation caused a tangible harm and the impacted homeowner had tried to resolve the situation amicably and/or through contacting the city.

Five Year Limitation

Discussion – Part A of Brad's proposal to record as to all five subdivisions was discussed. Amy indicated that she didn't believe that her neighbors on Cedarbrook were interested in the restrictions. Brad indicated that he would withdraw Windemere from his proposal. Pete agreed that his first proposal (limiting the duration to five years) be treated as an amendment to Brad's proposal as opposed to something separate. Regarding Pete's proposal to inform residents of the restrictions, Wendy indicated she had already written a detailed article for the March newsletter, and a summary of this meeting could be included in a later edition. In support of a 5-year duration, Pete indicated that he doubted that most neighbors knew that their rights to put out yard signs, own animals, etc. were

limited by these restrictions, and in 5 years we may know more about their views. He also said that most, if not all, recorded documents (including the original restrictions) include time durations and the text of the MRTA does not prohibit them. Jane indicated that she did not believe the MRTA allowed for a time limit, and that she had done substantial research about what OHMHA's powers and obligations were and felt we should file notices with no time limit. Wendy said that she agreed with Jane regarding the time limits, that the MRTA notice was a form we shouldn't vary from and she felt that we had an obligation to file notices due to the possibility that they would otherwise expire.

Pete left at 8:10 before the voting indicating that he wanted to vote no on the main proposal if his 5-year limitation did not pass.

Discussion of Brad's motion. Jack said that he would vote no on the 5-year limitation that Pete proposed indicating it would make the document more complicated. He also indicated that he thought that we should file by March 15 in case the register of deeds had issues with the format, and expressed concern that the Hoffman property would cost \$2,500.00. Jane said that this proposal is to maintain status, but said that there was a possibility that things would change if we do nothing.

Wendy called a vote on the 5-year time limit. Moved by Pete.

Yes - Pete (via proxy to Wendy).

No - Wendy, Amy, Joe, Jack, Jane, John, Connor and Brad (and Emily and Steve by proxy)

Excluding Windemere

Wendy then discussed excluding Windemere from the proposal. Amy said that Windemere's restrictions weren't affected by the MRTA 40-year lookback. Wendy pointed out that no Windemere association was ever established, and that she understood that its developer went bankrupt. Jane said that we should file, and that it was cheaper to do it now. Brad acknowledged that he withdrew Windemere from his proposal earlier in the meeting but now had changed his mind and wanted to keep Windemere in. Amy added that the Windemere restrictions are different from the others. Brad said that keeping Windemere in would save legal fees and avoid work for future boards. Jack asked if including Windemere would throw out the other 4 subs. Brad said that was unlikely as the filings are independent. Amy asked who would pay for Windemere's notice and noted that just two houses in Windemere pay dues. There was no discussion during the meeting of the basis for Pete's motion that the Windemere developer never recorded an assignment to an association as required by Windemere's Building and Use Restrictions.

Wendy then called for a vote to exclude Windemere.

No - Wendy, Amy, Joe, Jack, Jane, John, Connor and Brad (and Emily and Steve by proxy)

There was then a vote on Brad's proposal to record notices as to Smokler, Bolgos, Forest Hills, Forest Hills No. 2, the Orchard Subdivision, and the Windemere Sub.

No - Pete (via proxy to Wendy).

Yes - Wendy, Amy, Joe, Jack, Jane, John, Connor and Brad (and Emily and Steve via proxy)

Forming a Committee to Review Covenant Enforcement

Wendy then discussed the second part of Brad's motion which would organize a committee to put together a committee to discuss which we would like to enforce or not to enforce. Brad pointed out that the restrictions can be enforced by individuals, and that what the board does is separate. Jane asked if we are amending the restrictions or setting a board policy on enforcement. Amy said that someone built a fence within Windemere, and that resulted in a conflict with a neighbor. Brad pointed out that folks are keeping boats, etc. in violation of the covenants. Jane suggested tabling the motion. Joe asked if we have a mechanism to enforce the restrictions. Wendy responded that we have no architectural control committee. Jane stated that she believes that city fence permits are void if they violate restrictions, and that in theory the city would require a fence to be removed. Brad said that Windemere does not address fences.

Brad agreed to table this part of his motion.

Hoffman Filing and Costs

Jane then discussed the Hoffman declarations and proposed the Association pay the legal costs for the Hoffman recording with a possible contribution from OHAC/Dolphin pool and Prairie residents. Brad indicated that OHAC should be concerned about this issue, but that OHAC seemed uncertain on its position. Jack mentioned that various individuals residing near the pool/Hoffmann building were interested in recording notices. Wendy said that the attorney she spoke to regarding Hoffmann required a \$2,500 retainer to review, and that that attorney wasn't sure that OHMHA had standing to record notice. Joe pointed out that \$2,500 would deplete our resources. Jane said that she had brought up these issues 3 years ago, and that she felt it had taken too long to resolve. Jack pointed out that the attorney who had been contacted had doubts about standing.

Jane's Proposal - That OHMHA record a notice in connection with the declarations affecting the Hoffmann building, and seek the participation of individuals residing on Ardenne, Georgetown, Campus Heights etc. Moved by Jane and seconded by Brad.

Discussion - Jack asked if the OHMHA notice would include reference to the individual owners. Amy asked if neighbors would contribute funds separately.

Yes - Amy, Joe, Jane, Brad, John, Wendy and Jack voted yes (and Emily voted yes by proxy. Steve's proxy wasn't voted as this motion varied from what had been proposed before the meeting).

There was then discussion of publicizing the board's actions. Wendy mentioned that whatever fits on the postcard will be the notice. She suggested the website would be repository for copies of the restrictions. Jack indicated that he and Wendy will be pursuing the recording of the Hoffmann notices.

Meeting adjourned at 9:00 pm.